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ONTARIO AND BALANCED FEDERALISM

A Review and Strategy For Ontario's Intergovernmental Relations

1981-1982



Ministry of
Intergovernmental
Affairs

July 1982



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ONTARIO AND BALANCED FEDERALISM

A Review and Strategy

For

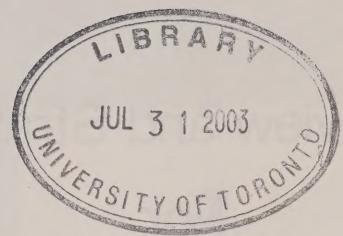
Ontario's Intergovernmental Relations

1981-1982



Ministry of
Intergovernmental
Affairs

July 1982





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Intergovernmental
Affairs

416/965-3606

Queen's Park
Toronto, Ontario

I take great pleasure in forwarding to you this second annual review of federal-provincial and interprovincial relations prepared by the Ministry of Intergovernmental Affairs. Its purpose is to provide you with an overview of these relations, identifying the prevailing trends, and provide some guidance in terms of your own Ministry's dealings with the federal government and the other provinces.

In June 1981, responsibility for the municipal affairs program was transferred to the Ministry of Municipal Affairs and Housing. The new, streamlined Ministry of Intergovernmental Affairs now more closely resembles its sister organizations in other provinces. Our major activities are focussed on federal-provincial and interprovincial relations, Ontario's involvement in Canadian international relations, protocol services, and French language services.

In each of these activities, the Ministry has the dual responsibility to advise the Government with regard to its overall policy interests and relations with other governments and to assist Ministries with regard to their specific intergovernmental policy issues or service needs. To carry out these activities effectively requires a high degree of cooperation with the staff of other Ministries. We appreciate and thank all Ministries for the cooperation and understanding that they have shown throughout the year.

Tom Wells.
Honourable Thomas L. Wells
Minister of Intergovernmental Affairs



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Queen's Park
Toronto, Ontario

I enclose the second annual review of federal-provincial and interprovincial relations produced by the Ministry of Intergovernmental Affairs. It covers the period from the spring of 1981 until the spring of 1982, encompassing the debate leading up to the proclamation of the Constitution Act, the energy agreements, the renegotiations of federal fiscal transfers to the provinces, and the growing controversy over federal economic strategy.

Part A of the review sets out our interpretation of the broad trends in intergovernmental relations during this period, identifies the implications for Ontario and suggests some approaches for consideration by the Government. In terms of individual Ontario ministries, it aims to provide a context in which to respond to the various intergovernmental issues in their particular areas of functional responsibility.

Part B focuses on these issues on a function by function basis, identifying the major concerns of the past year and attempting to anticipate developments in the coming months.

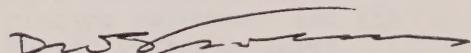
It should be noted that intergovernmental relations in 1981-1982 were largely characterized by an aggressive federal government determined to realize its constitutional, energy, fiscal and economic priorities with or without provincial co-operation. This strong centralist tendency was conditioned by the federal perception that over the past decade, Canadian federalism had become increasingly decentralized and that continuing pressures in this regard had to be counteracted.

To some extent, Ontario shared this analysis. However, the broad and seemingly indiscriminate nature of the federal approach over the past 12 months became a growing Ontario concern.

Our analysis has assumed that the tough federal attitude would continue into 1982 and there is, as yet, no hard evidence to the contrary. However, the severity of the current economic situation may force a change in the federal approach. At the February First Ministers' Conference on the Economy, Mr. Trudeau emphasized the need for federal action with or without the provinces. When he met with the Premiers on June 30, a good deal of the hard edge was excised from the federal rhetoric. This perhaps indicates a growing federal realization that the magnitude of current economic problems is such that they can only be solved if the federal and provincial governments work together.

However, the events of the next few months will have to unfold before we can assess whether the federal government has again been converted to the merits of co-operative federalism.

Finally, may I take this opportunity to thank you and the staff of your Ministry for your co-operation during the past year. It is through sharing the insights that you develop in your functional areas, providing advice to you on some of the specific matters which have arisen in these areas, and attending intergovernmental ministerial and officials meetings with you that make it possible for us to develop a perspective on the broad context of federalism and thus on the issues of particular concern to your Ministry. We very much appreciate your contribution in this regard.



D. W. Stevenson
Deputy Minister

SUMMARY

- The first part of this review presents a broad overview of the major events and themes that characterized inter-governmental relations in 1981-1982. It analyzes the events and their effects and provides the elements of a strategy for Ontario's response to the emerging trends in 1982-1983.
- The second part of the review contains a detailed presentation of the issues, their implications and expected events in those functional areas in which intergovernmental relations are prominent.

* * *

- During the last fiscal year the essential "glue" of a balanced federalism (co-operative action, mutual respect and good faith among governments) has been replaced with unilateral federal and provincial actions resulting in distrust, acrimony and inconclusive joint discussions on national problems.
- There was only a limited willingness on the part of most governments to mediate conflicts in their actions through negotiations and to make the compromises that would allow issues to be resolved. Overall, this conflict was caused by federal attempts to centralize the federation indiscriminately and provincial unwillingness to consider the interests of Canada in their policy objectives.

- The effects of centralization

- The federal government continued to respond to strong regionalism within Canada by asserting its claim, based on its Parliamentary mandate, to alone represent the national interest. The federal government rejected co-operative federalism as being unworkable and abdicated its brokerage role, only working collectively with the provinces when forced to do so.
- The two major co-operative intergovernmental achievements of last year, the energy pricing agreement and the constitutional agreement, only became possible after significant provincial leverage and a Supreme Court ruling prevented the federal government from moving unilaterally.
- The range of federal initiatives taken over the last two years demonstrate its abandonment of co-operative federalism:
 - .. an enlarged definition of "the national interest" to affect provincial program standards within provincial jurisdiction;
 - .. the unilateral abandonment of joint undertakings with provinces;

- .. the cancellation of federal activities without consideration of the impact on the provinces;
- .. the replacement of multilateral negotiations with bilateral meetings, or the downgrading of negotiations into consultation or information sessions;
- .. the bypassing of federal-provincial negotiations in favour of the use of Parliamentary committees, task force hearings or reforms of the federal bureaucracy.
- Specific fiscal, economic, and social policy initiatives taken by the federal government reflect the above orientations, pursued without concern for provincial objectives.
- Such federal approaches are destructive for Ontario: the federal government's unwillingness to negotiate creates a mood of distrust and impedes the development of intergovernmental consensus which is necessary for the exercise of federal leadership on the economy.

. The effects of provincialism

- Quebec and Alberta (and other provinces to a lesser extent) have been forceful proponents of a highly decentralized federation. This has been both a cause and an effect of the current negative federal approach to cooperative federalism.
- The divergence of views between Ontario and Quebec weakens their joint advocacy of the interests of central Canada in national policymaking, enabling the federal government to focus on more exciting economic prospects in other regions and sectors.
- The historic strain in relations between Ontario and western Canada were more actively focussed in 1981-82 because of the major issues of constitutional reform and energy. When the western economy and revenues meet only western provincial interests, this deprives other provinces and communities of the benefits and purpose of federalism.

• Elements of an Ontario response

- The objective is to get federalism -- good faith, joint action, mutual respect -- working again; Ontario can demonstrate these qualities in its actions towards other governments to whom it can propose several principles that would lessen the sense of vulnerability governments experience when dealing with each other.
- These principles include making intergovernmental relations: predictable, by formalizing reciprocal obligations; flexible, by recognizing that roles may change over time; co-operative, by committing governments to bargaining; and rational, by clarifying federal and provincial responsibilities.
- There are additional responses to Quebec and the western provinces where Ontario's particular attention can make a difference:
 - .. improve economic co-operation with both regions in areas of mutual interest;
 - .. develop better linkages and communications with the Quebec people and federalist groups to explore proposals for renewed federalism;
 - .. increase sensitivity to western aspirations and grievances so that regions sense a constructive attitude towards their differences;
 - .. consider reform of national political institutions to improve provincial participation in national decisions.
- When a federal system goes "sour", the damage is not confined to specific issues, but instead spreads an attitude that frustrates consensus-building and leads to fragmentation. Ontario's advocacy of a balanced federalism meets its own specific interests and establishes as well a climate for constructive, positive intergovernmental activity.

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INTRODUCTION: FEDERALISM AND ONTARIO

Ontario thrives in a balanced and vital federal state: our economic prosperity requires a diverse but common Canadian market, and our sense of social justice and nationhood demands that Canadian citizenship guarantees similar rights in all regions but not to the point of a stifling uniformity. Realization of these objectives often depends on the ability of federal and provincial governments to co-operate with one another. Thus Ontario's social, political and economic interests place a high value on a federal system that respects the integrity and jurisdiction of provinces, yet provides for effective national action. For Ontario, an important test of a dynamic balance between those two principles is the disposition of governments to respect the claims of others; compromise and consensus become crucial ingredients of national harmony.

This survey of intergovernmental relations in 1981-82 is intended to assist Ministries in their day-to-day dealings with other governments in our federation. Part A describes the current tensions being experienced in Canada and suggests some actions for maximizing Ontario's interests. Part B provides the specific details and implications of intergovernmental activities during the past year on a function-by-function basis.

A. The Prevailing Trends of 1981-1982

A. THE PREVAILING TRENDS OF 1981-1982

I. In a Nutshell

The fiscal year 1981-82 has been characterized by a federal government too often determined to realize its objectives no matter what degree of provincial opposition or concern it encountered, and by some provinces determined to insulate themselves from the decisions of a federal government with whom they felt they had little influence.*

At the best of times in Confederation, there is an ongoing tension between the desire of governments to act alone to meet their own interests and the need to act jointly to meet the wider and more complex demands facing the country as a whole. In 1981-82 there was only a limited willingness of governments to mediate their differences through negotiations. On the constitution, energy price agreements, and fiscal/economic policy, the trend was one of federal ultimatum, unilateral actions, and governments drawing apart from each other. Where agreement did occur such as on the constitution and energy pricing, it was largely through the exertion of some form of leverage to force negotiations.

A federation which contains the often-conflicting demands of provincial and federal governments requires attitudes of co-operation as much as it does a constitution and courts in order to ensure its effective functioning. Without trust, mutual respect and good faith among

* Whether this situation will continue throughout 1982-83 remains to be seen. The severity of the economic challenges facing Canada may force both the federal government and the decentralist provinces to rethink their go-it-alone approaches. As of mid 1982, no conclusive signs of a more co-operative attitude have yet appeared.

governments, the formal institutional or constitutional provisions will require and produce only the most perfunctory and grudging attempts at harmony.

In its constitution and political tradition, the Canadian federal state has been characterized by legally defined jurisdictions for both levels of government; however, in contemporary society this legalistic foundation has proven a cumbersome and stilted means of establishing rights and respect among governments. A much more fluid and loose form of co-operative federalism has been the response of Canadian governments, as they expanded and matured, to complement the watertight, legalistic expression of "who does what". In this co-operative mode, governments address their joint activities by granting each other recognition, trust and respect as expressed through program negotiations, harmonization and bargaining. While more sophisticated and adaptable than rigid legalism, this form of federalism is equally more vulnerable. It can be jeopardized by the refusal of a few governments to acknowledge the claims and interests of others, by indications of bad faith, and by substituting unilateral action for consensus-building across the cleavages and diversity in the federation.

In Sections II and III of this Part, which follow, there is a common theme of unilateral rather than of co-operative actions. Section II covers the federal activity in the areas of energy, constitutional reform, fiscal/economic and social policy, and the way in which it has worked with or without provincial consultation. Section III looks at the effect on Ontario of claims by Quebec and the West upon Confederation as the provincial variant of "going-it-alone".

While resort to court challenges and tighter constitutional definition of jurisdictions might lessen the immediate conflict, such actions leave unresolved the larger problem of governments which seek to advance their own interest by withdrawing mutual recognition and respect from others. This saps good will and sours relations. Intergovernmental activities in 1981-82 demonstrated just such a degeneration: the retreat from collective, co-operative, consensual relations among governments into self-defined unilateral actions thus effectively substituting unilateralism for federalism.

II. The Federal Attitude

The 1980-81 review of intergovernmental relations observed that the federal government had determined to respond powerfully to strong regionalism within Canada by asserting federal leadership under the rubric of policies in the "national interest". Simultaneous initiatives across a broad front were undertaken to further national unity and achieve a higher political profile. These included: constitutional reform, Established Programs refinancing, the National Energy Program, western infrastructure rehabilitation and an industrial strategy. These initiatives have common features: they do not respect provincial jurisdictions or the need for co-operative action and they represent the federal claim to set national priorities based on its Parliamentary mandate alone, rather than on consensus among governments in Canada.

While Ontario has frequently shared the federal view that certain issues require a national response, and indeed, was supportive of federal energy and constitutional policy, the Province witnessed with growing concern the seemingly indiscriminate application of federal aggressiveness to other priority areas. For instance, while Ontario has called for national leadership on the economy, it has criticized the federal unwillingness to listen to provincial concerns. This negative federal attitude towards co-operative federalism and its readiness to conceive national policy outside of collective discussions characterized much of the federal approach in 1981-82, and can be illustrated in the energy, constitution and economic/fiscal policy areas.

1. Co-operation through leverage: energy and the constitution

It is tempting to point to two events in 1981-82 as co-operative intergovernmental achievements and conclude that the ability of federal and provincial interests to reach a harmonious, negotiated solution remains intact. But with both the signing of energy pricing agreements and the achievement of a broad consensus on a constitution, provinces had to exercise uncommon leverage in an acrimonious setting to prevent the federal government from moving unilaterally. Agreement was achieved by recourse to court action and counter threats, neither of which could be claimed as a positive foundation for further consensus.

a) Energy Pricing Agreements

The agreements signed with Alberta, Saskatchewan and British Columbia to establish a pricing and supply regime for oil and gas were spurred by the federal government's broad claims to a jurisdiction contained in its National Energy Policy, unilaterally declared in October, 1980. Since 1961 federal activity in energy pricing and supply policies has touched upon provincial jurisdiction over natural resources and has required negotiations from time to time to resolve competing taxation and development policy towards the industry. The most recent agreement proved the most contentious because it involved new and significant federal claims to taxation revenues from oil and gas.

While the 1981 agreements do not change the prominence of federal powers over natural resources, including the levy of export taxes,* determination of "Canadianization", and

* The current form of federal levy has been declared ultra vires by a recent decision of the Supreme Court of Canada.

paramountcy over pricing and supply in interprovincial trade, the provinces did secure higher prices and a constitutional amendment providing for some provincial jurisdiction over interprovincial trade in non-renewable natural resources. These developments were made possible by the supply cutbacks imposed by Alberta during negotiations, forcing Ottawa to buy expensive offshore oil and delaying a start to the mega-projects which were a keystone to federal revenue flows and economic recovery. Alberta's action checked unilateral federal aggressiveness and made negotiation and compromise necessary.

b) Constitutional Agreement

In October 1980, faced with intergovernmental deadlock, the federal government declared it would proceed unilaterally* with a Parliamentary resolution for constitutional reform. Yet a little more than a year later on November 5, 1981 a consensus agreement was reached among ten governments on a constitutional package. A number of factors produced this dramatic reversal when both the federal and opposing provincial governments appeared so unwilling to compromise:

- A majority of eight provinces opposed the federal resolution; they mounted a Court challenge to the legality of the unilateral federal move and later mounted a political challenge by agreeing among themselves on an alternative constitutional accord.

* The federal government was supported by Ontario and New Brunswick. Ontario put its weight behind the federal government on this issue because it agreed with much of the substance of the federal constitutional proposal and because it felt that the attitude and demands of a number of other provinces meant that the odds of reaching a federal-provincial consensus were extremely poor.

- The Parliamentary Opposition threatened to deny broad consent unless the resolution was a) first sent to Committee hearings, and b) later referred to the Supreme Court before being passed by the House of Commons. Without sufficient provincial government support, broadly based Parliamentary support was essential if the federal government was to claim its unilateral action reflected the "national interest."
- The Court decision of September 1981 dealt both provincial and federal take-it-or-leave-it approaches a blow: provinces were told that, legally, the federal government could proceed without unanimous assent, and the federal government was reminded that, by convention, action without significant provincial support was "unconstitutional."
- Neither side in Canada could with certainty predict the U.K. Parliament's reaction to either the federal proposal or an appeal by eight dissenting provinces that the conventional consensus was lacking.
- Neither position had either the conclusive popular or judicial support to prevail over the other: public opinion favoured the broader federal constitutional package (patriation and a charter) but equally favoured a federal-provincial consensus, thus pressuring both sides to negotiate; the Supreme Court's decision -- although breaking the requirement for unanimous approval -- did not unequivocally confirm the federal government's ability to move unilaterally.

Thus both the federal and majority provincial position moved to negotiation and compromise not out of a mutually shared view of co-operative federalism but because both sides could apply leverage on the other. The Court decision provided each side with leverage, thus making an agreement necessary; but divergent descriptions of the negotiated agreement highlighted the "negative" nature of the issue's resolution: provinces praised its reaffirmation of the tradition of co-operative federalism, while Prime Minister Trudeau said that the constitutional agreement had merely "prevented the slippage of Canada towards a community of communities or ten quasi-autonomous states".

2. Going-it-alone: fiscal and economic policy

In these policy areas, one can see most clearly the fully developed assertion of aggressive federal leadership. It acted initially to take a new responsibility for economic growth and, subsequently, in response to severe inflation, unemployment and budgetary deficit, as well as the apparent inability of provinces to act together. The sheer magnitude and urgency of economic and fiscal problems warranted decisive national action. But the atmosphere necessary for seeking consensus had been soured - from the provincial perspective by the federal government's recent unilateralism on the constitutional and energy issues, and from the federal perspective by the strong decentralist claims of provinces and the threat such claims posed to federal powers. For these several reasons the federal government undertook a number of initiatives to reassert the prominence of national policies and its responsibility for them.

The intergovernmental consequences of the federal fiscal and economic initiatives mentioned earlier (the National Energy Program, economic development policy and EPF renegotiations) consisted of an infringement on provincial jurisdiction, abandonment of joint commitments and an unwillingness to negotiate:

a) Abandonment of joint commitments

- Federal activities have been cancelled without consideration of their impact on provinces (commuter rail, revenue guarantee, DREE agreements)
- Negotiations between federal and provincial governments to establish national policy and priorities have been downgraded into consultation or information sessions, and have been replaced by nationwide travels of parliamentary committees and special task forces, or reform to the federal bureaucracy as an alternate means to gauge and respond directly to local and pressure group concerns.
- Concomitantly, the importance of the Federal- Provincial Relations Office has been downgraded in the federal bureaucracy, lessening the opportunity for provinces to be informed of or modify federal initiatives affecting provincial jurisdictions, e.g., federal economic development and manpower strategies.
- Recent federal amendments to taxsharing and equalization legislation demonstrate federal adherence to its own tightly-defined objectives and agenda, and its abandonment of collegial leadership of the federation: the terms of fiscal arrangements for the next five years are unilaterally imposed on the provinces with no intergovernmental agreement, contrary to previous experience.

b) Reduced interest in interregional brokerage

- There is little federal attention to or interest in the problem of interprovincial, intergovernmental fiscal disparities, primarily between energy-producing and energy-consuming provinces, which will worsen with the growth of western resource revenues. The federal government instead talks of a long term structural imbalance between the revenue and expenditure capacities of federal and provincial governments such that more revenues need to flow to Ottawa. However, its own Task Force on Fiscal Arrangements has said that evidence does not support this.
- Multilateral negotiations were replaced with bilateral meetings to lessen the province onslaught upon federal proposals in such complex and overlapping areas as industrial strategy, western freight rates and energy pricing.
- The federal economic development strategy reflects abstract and rigorous economic theory, and constitutes a shift of focus away from declining traditional industries and a neglect of policy modifications through intergovernmental bargaining:
 - . "envelope" expenditure targets are established for three-year periods, in principle restricting in-year adjustments and restraining individual ministers from addressing local issues; the increasing federal deficit may also make departures from carefully balanced envelope budgets difficult, and program-trimming paramount.

- subsidies to "uneconomic" activities are defined as "social" policy and consequently reduced or dropped (Crow Rate adjustment, VIA Rail cuts, General Development Agreements terminated).

c) Extension of federal activity in provincial jurisdiction

- Generally there has been an enlarged federal definition of the "national interest," so that it directly affects provincial jurisdictions (health, education, manpower, competition policy). The most immediate and serious issues arise in the renegotiation of EPF programs and the federal intention to "reconditionalize" its social policy transfers. Ottawa seeks to enlarge the federal responsibility in these areas: it proposes extending minimum national health standards to billing and arbitration practices, and it defines the provincial role in education as merely "primary," although the Constitution Act 1867, states it to be exclusive.
- The federal objectives evident in fiscal and economic policy are similarly applied to social policy, e.g., social security (pensions, welfare) and culture (arts, communications and bilingualism), although Ottawa has a relatively restricted ability to achieve these social policy objectives through spending. Pressure on a Liberal government to retain its traditional identity with enlarged social programs will grow as a national election approaches. However, the federal government will likely intensify its efforts to make its presence felt directly with scarce new money, rather than transfer it to the provinces.

3. An Ontario response: making federalism work

Ontario is faced with a strong, assertive federal government which is prepared to set aside its obligations to make the federal system work harmoniously, and the Province's response to this situation must therefore be complex: we must seek to balance our interest in decisive national leadership with our interest in preserving a meaningful and effective role for provinces. The achievement of such a balance requires a strategy that encourages a dialogue among governments, one directed towards establishing reciprocal recognition of and respect for each other's objectives. A reinvestment of effort in a co-operative approach to matters of joint responsibility is the main procedural objective of Ontario's strategy; substantively this will require the Province to take a middle position on many current issues.

a) Reaffirm the value of federalism

Ontario is forced to respond to a federal government determined to define its sphere of activity (and inactivity) largely on its own, thereby increasing the likelihood of the duplication or pre-emption of provincial functions. Unlike Ontario, Ottawa appears not to be torn over the question of balance in federalism, but rather is solely focussed on objectives where the federal government "wins", immediately and publicly. The consequence for provincial governments in such a climate, and eventually for government generally, is cynicism, competitiveness and divisiveness in executing the public trust. The federal approach causes greatest damage not on specific issues but on the general atmosphere of intergovernmental

relations, upon the respect for balanced unity and diversity, the disposition to compromise, and the stock of good will and good faith. Federalism's redeeming feature is not in an ironclad constitution, but in the willingness of its partners to compromise.

However, the federal government's pursuit of a clearer mandate requires it to present a negative caricature of federal-provincial negotiations which ignores their successes and deprecates their worth. For example, Mr. Trudeau has presented the situation as a choice between Parliamentary democracy and something less:

"If Parliament's decisions must be negotiated, how can they be decisions... If it is the negotiators who determine the outcome, is it Parliament that is supreme or the negotiators?"

"Those who speak for the common good, must be reached by the community of all voters. The opposing view of Canada holds that the common good cannot be determined in Parliament, nor, some even argue, in the legislatures; but somewhere else, by some other means than parliamentary means, by the provinces checking and balancing the nation."*

Such a position conveniently ignores that the "negotiators" are duly-elected Premiers or Ministers who are meeting on areas of common interest or joint responsibility. It equates the national will or "common good" with the federal majority in Parliament and creates a wrong impression of federal-provincial relations.

* Speech to the Confederation Dinner, Toronto, November 5, 1980, p. 8.

The Prime Minister argues that there has been "a very large, massive swing of the pendulum towards greater provincial power and greater provincial spending," and he cites a decline in the federal share of total government spending in Canada "from 52% (in 1959) to 34% (in 1981), ...when you take transfers to provinces into account." Budget Paper B of the 1982 Ontario Budget refutes this claim in detail. Mr. Trudeau illustrates his concern by presenting the demands of some extreme provinces and thereby lumping all provinces together and polarizing the choice between centralization or chaos ("a confederation of shopping centres").

This polarized conception ignores the fact that a province like Ontario does not fit the mold. During the final round of constitutional discussions, it actively worked for a compromise between the Parliamentary resolution and the accord of the eight dissenting provinces. It has long argued for clear federal leadership on the economy and in aspects of energy policy. It recognizes a reasonable federal role in manpower, health and education issues.

Faced with Ottawa's rigid view of federalism, some provinces will be tempted to reach for a similarly ill-tempered solution. Some will retreat into self-reliance because they are numerically a minority in Parliament or the Cabinet (such as Alberta or Newfoundland) and will use the federal moves to reinforce their province-first positions. Moreover, Alberta's wealth could enable it to spurn federal attempts to tighten controls over joint programs. Quebec, though numerically important in Parliament and critical to the federal Cabinet, embodies in its P.Q. government a fundamental ideological

opposition to the federal role and is evidently prepared to suffer some program dislocation as a result.

The bulk of Ontario's interests will not be met by replacing co-operative federalism with competitive unilateralism. Historically this Province has been aligned with a strong central government when forces for decentralization would erode the national purposes of Canada, and aligned with provinces when federal actions would diminish the diversity and autonomy of provincial business and interests. As a result, it cannot support indiscriminate "fed-bashing" over any proposed federal initiative since national cohesion, and the common market built on it, will falter. Nor can it support a degree of decentralization that leaves legitimate issues of national policy unattended because provinces are unable to address them collectively.

In each functional area, therefore, Ministries should point out the impediment caused by the lack of collective action and the failure to extend mutual respect. Moreover they will have to remain alert to those attempts to misrepresent the record and to cultivate public support for a simple, but narrow solution.

b) Set the standards for a balanced federalism

The point of seeking a balanced federalism is to require give and take from all governments, Ontario being no exception. While both levels of government have functions that are exclusive and unlikely to change, increasingly there are areas of joint responsibility, activity or interest such as environment, manpower, fiscal

and resource policies. If intergovernmental relations are to improve in these areas, there will have to be flexibility, co-operation and mutual respect. However, because of the scope and fundamental nature of recent intergovernmental issues, governments now feel vulnerable or unreasonably compromised in intergovernmental negotiations. To address this Ontario could propose the following principles:

- i) Predictability should be an obligation of governments operating in common areas: joint schemes with clear terms of commitment, time span, and methods for revision. This may be further enhanced by forms of program disentanglement, a federal-provincial memorandum of agreement or more formal constitutional amendment delineating who does what.
- ii) Adaptability should be practised by both levels of governments: circumstances such as budgetary deficits, or new proposals for national policies will invariably cause a reconsideration of existing commitments for both government levels, but the response to new circumstances need not be restricted to traditional methods that slavishly follow existing jurisdictional splits. Ontario is on record as sympathetic to a form of asymmetrical federalism in which different arrangements can be made among governments.
- iii) Accountability and visibility for both governments in common areas can play havoc with joint agreements, but in principle these are essential foundations of democratic government, which must be negotiated.

- iv) Federalism remains the objective, not the creation of a monolithic federal nationalism or of provincial autonomy. For instance, neither a new federal claim to pre-eminence in any field it wishes to define as having a national dimension (such as post-secondary education) nor the fact that it reports to a national Parliament alone establishes the legitimacy of a national priority in that area. Nor should provinces act in their own self interest in violation of the longer tradition of sharing with other regions of Canada. Self-regarding acts of governments can legitimately be met by counterclaims that the national interest or political and cultural diversity demand otherwise.
- v) Counterclaims should be adjudicated by negotiation and bargaining as an essential means of acknowledging the claims and equal status of the other order of government.
- vi) "Survival of the fittest" should not be the crude rule for allocating activities; rather, the joint objective should be to clarify responsibilities, and such an exercise should be guided by appropriate tests of whether each predominantly constitutes a national or local issue. This recognizes that, although both federal and provincial interests can be read into almost every functional area, competing claims must be reconciled in an orderly and disciplined fashion.
- vii) Tests of the national and local dimensions of issues should not primarily turn on whether parliamentary or provincial action would be the more uniform or the least costly response; such distinctions are

secondary, although they frequently pre-empt the more proper question of whether the issue is primarily an expression of the local or regional community, or truly involves the establishment of a nation from sea to sea. For example, education, the mix of health services, the form of linguistic guarantees or the character of resource development are predominantly local issues, while the national interest is in the objective of a bilingual, educated, healthy and prosperous Canadian nation. This Ministry's 1980-81 Review made an important distinction between national (i.e. federal) and nationwide (i.e. collective provincial) issues.* The test in each functional area should be: "If federal and provincial interests are to be respected, what should be those governments' respective activities?"

viii) Finally, Ontario should analyze mechanisms for their ability to keep Canada together rather than fragmented. For instance, we could recognize the use by Parliament of a "compelling national interest" provision if individual or collective provincial actions should at some point jeopardize well-established national commitments and standards. We should also recognize that the Courts may be required to check federal intrusions in some areas but such methods should be used only as a last resort, not as starting points to bludgeon opponents and sour the atmosphere of federal-provincial negotiations.

* Ministry of Intergovernmental Affairs, Ontario in a Changing Canada, p. 11.

What this general approach could mean for individual Ontario ministries faced with intergovernmental issues is, accordingly, threefold:

- Ontario ministries can rebut the federal disinterest in true federalism by pointing to the destructive effects of a lack of trust and the impracticality of unilateral action.
- Ontario's advocacy of co-operative federalism is based on a balance between centralist and decentralist impulses, and above all promotes a willingness to negotiate. By offering its principles for balanced federalism, Ontario sets a standard for positive discussions. Moreover such stance is more likely to appeal to most Ontario residents, tired and concerned as they are about federal-provincial squabbling.
- In future constitutional discussions, Ontario could focus on reform to national institutions because the new institutions would constrain provinces to think nationally (the federal concern) and require the federal government to seek unity through intergovernmental consensus (the provincial concern).

III. Provincialism as a loss of faith in federalism

Although the actions of the federal government have been the most prominent factor setting the tone and trend of intergovernmental relations in 1981-82, a significant number of provinces, to varying degrees, have shown a tendency to reduce their obligations to cooperative federalism and to go it alone. One readily thinks of Alberta and Quebec as the most vocal, followed by Newfoundland. Even Premier Bennett of British Columbia was limited in his conciliatory gestures as spokesman of the Premiers in 1981 and Premier Blakeney may in part have lost the Saskatchewan election in 1982 for his moderation towards Ottawa.

This Section explores the roots of this discontent in Quebec and Alberta only, with the same objective as the preceding section: to suggest interprovincial actions Ontario can take to reintroduce the understanding, trust and responsiveness that we believe is lacking in federalism. Once again there is much that Ontario alone cannot achieve, but it can by partial actions, gestures and expressions of good faith set a tone for intergovernmental co-operation that will be consonant with this province's interests. This is not advocacy of a sell-out to strong regional positions or separatism as the price of peace, but rather a discriminating development of Ontario's response: different regional arrangements for different regional needs.

1. Ontario-Quebec Relations

Ontario's relations with the P.Q. government of Quebec have been problematic since 1976. Different concepts of federalism, the P.Q. commitment to separatism,

the polarization of the referendum campaign, a later grudging participation in Confederation in which Quebec pursued its own powers irrespective of the consequences for federalism... all of these came to a head in the fundamental exercise of constitutional reform, the conclusion of which the Quebec government termed a defeat.

These events strained the natural and historic affinities between the two provinces in national politics as defenders of the central Canadian industrial economy. Ironically, while political views now differ, the two provincial economies remain similar and bear in common the worst effects of the economic recession because they are the regions most dependent on manufacturing industries and are the largest consumers of internationally or interprovincially imported energy supplies.

Quebec's experience with the "failure" of constitutional reform only reinforced its cynical attitude towards co-operation with other provinces, negotiations with the federal government, and the respect paid by other provinces to Quebec's unique identity... all three supposedly the keystone of an ideal federal system. In joining the Provincial Accord against Parliament's constitutional resolution, Quebec ceded negotiating positions no previous Quebec administration had ever ventured: it offered up a Quebec veto in any amending formula, and dropped its insistence on a redistribution of powers to precede patriation. Whether it was ingenuous in expecting no province to depart from the Accord position, or it simply miscalculated at the November 1981 Constitutional Conference and itself helped trigger the collapse of the common front, Quebec in the end claimed it was out-maneuvered by untrustworthy fellow Premiers.

In the aftermath, Quebec's intergovernmental boycott had the most direct effect on Ontario-Quebec relations: the long-standing co-operative relationship between respective line ministries was strained, common interprovincial positions in negotiations with the federal government were difficult to forge in Quebec's absence, and any intergovernmental agreements which were achieved were compromised by Quebec's non-participation. Although there are now indications that Quebec is gradually reintegrating itself into full federal-provincial participation, its actions remain more negative than positive: attempting to gain the most accommodation from national policies by stressing its difference from other governments, and cooperating with other provinces only on an ad hoc, specific-issue basis.

In Ontario-Quebec relations, Messrs. Davis, Wells and others stated after the constitutional agreement Ontario's interest in ending Quebec's isolation by engaging in a dialogue on items of interest and concern to Quebec. For its part, Quebec has recently made several overtures at the ministerial level toward exploration of Quebec-Ontario fiscal and economic interests.

Without prejudging the motives of the Quebec government, the Ontario Cabinet Committee on Federal-Provincial Relations has recently (June 1982) recommended a strategy for re-establishing relations with Quebec, consisting of a short-term and long-term response.

- Ontario and Quebec's common interests as Canada's industrial heartland, hardest hit by recession, could benefit from closer interprovincial co-operation in trade and joint influence on federal economic and

fiscal policy. It is proposed that Provincial ministers could meet to identify a range of items for co-operative action: both those that interprovincial co-operation could address and those for federal government attention.

- As well, it is suggested Ontario ministers go to Quebec in the fall of 1982 to meet with federalists there and explore constitutional and cultural alternatives to separation, to clarify Ontario's French-language policies, and to broaden the understanding of Ontario Quebec interests through interprovincial exchanges.

By these actions, Ontario would demonstrate an openness to working with the present government of Quebec on matters of shared interest and concern, and in lobbying the federal government on behalf of central Canada, while, for the longer term, working with the interested groups in Quebec for a renewed and more sensitive federal system. There is no particular obligation upon Ontario to make the first move, except that, once again, a commitment to balanced federalism requires the demonstration of a willingness to build bridges.

2. Relations with western Canada

Because of the critical topics of energy and constitutional reform, western provinces had the opportunity last year to focus and express jointly their complaints with federalism. Although there are distinct historical, economic, and cultural differences among them, most of their people have a common image of themselves as Westerners, encompassing elements of the major historic

western grievances. The western provinces have often found it strategically useful to speak with one voice on important federal-provincial issues as a means of achieving leverage with the federal government and central Canada.

"Western alienation" has waxed and waned throughout Canadian history; but the 1980 election that defeated Prime Minister Clark resulted in an increase in the level of alienation to such an extent that it became the focus of national attention. In part, Westerners took their cue from the conduct of the federal government itself as the critical "other half" of the bargain of federalism. Sensing events and actions that denied them a just and responsive federal system, they returned as good as they got: lack of good faith, absence of reciprocal respect, unilateral pre-emptive acts, and unwillingness to recognize the claims of others to the point of refusing negotiations and bargaining.

Much resentment was directed against Ontario as the supposed major beneficiary of Confederation and of federal policies. Ontario's support for federal positions on the constitution in particular was seen as confirming western perceptions. Moreover, Westerners saw the National Energy Program and the negotiations over the energy pricing agreement as attempts by the federal government to rob Westerners of the profits from their resources for the benefit of Ontario (and Quebec). There was thus no effort in the West to understand the adjustment problems faced by Ontario due to higher energy prices. Similarly because Ontario opposed the eight provinces dissenting from Prime Minister Trudeau's attempt to patriate the constitution, the West did not acknowledge Ontario's position that equalization renegotiations should address the problem of fiscal and economic imbalance among the provinces.

Now that several major contentious issues have been settled, there could be a greater likelihood of at least some reconciliation between Ontario and the West, on issues such as EPF standards and macroeconomic policy. The equality of all provinces in the new amending formula overcomes a major psychological hurdle. Ironically too, the downturn in the economy which has hurt Ontario's manufacturing sector may actually improve Ontario's image in showing its economy to be vulnerable, a situation that western residents have faced.

But western attitudes reflect a continued suspicion of a federal government slow to give it due consideration. The West is attempting to use its increasing share of the population and, especially, its relatively favourable economic position and potential to increase its economic and political power within Canada. There are two basic thrusts to the West's push for greater power. On the political side the West has already achieved one of its objectives by forcing acceptance of an amending formula based on the equality of provinces. The West will continue to press for changes that will emphasize provinces rather than population as the basis for decision-making as a means of increasing the West's political power relative to Ontario's and Quebec's.

On the economic side, the West will use its resource wealth to attract new industrial activity in an attempt to diversify and stabilize its economy. Although Ontario will likely benefit from the spin-off effects of western development, there is also the potential for increased competition between Ontario and western provinces for limited new development.

Western governments, especially Alberta, have pursued these objectives with the same singleness of purpose that they believe has kept Ontario and the federal government solely focussed on each other. The varying degrees of turning inward among western governments already has produced new acrimony over the issue of interregional equalization and policies brokered by intergovernmental negotiations. Already a limitation of federal access to wealth earned in the West has meant that interregional equalization cannot cover Ontario, thus widening the gap of western and eastern tax capacities. To change this situation based on a mutual sense of fair play, will require governments to invest in the rebuilding of trust and obligations between West and East.

Ontario is constrained in what it can do directly to respond to western grievances because many potential actions are within federal jurisdiction. Ontario's role is thus more one of influence than of action. Moreover, western antipathy towards Ontario causes Westerners to be suspicious of highly visible moves or proposals by Ontario on western-related issues. In addition, Ontario has to balance the interests of Ontarians against the interests of Westerners, both in the short-term and the long-term, and has to try to find responses that will satisfy both.

Within these general considerations, Ontario can look to three initiatives that could improve its image in the West. These include:

- ensuring that Ontario's statements and actions are sensitive to western aspirations and do not

inadvertently confirm western perceptions about the rest of Canada. Realizing that Ontario interests cannot always coincide with western objectives, emphasis could be placed on those matters where we do agree and conflict minimized where possible;

- improving economic relationships by concentration on co-operative and complementary economic initiatives and obtaining favourable federal economic policies;
- considering reform of national political institutions (e.g., Senate, Supreme Court, federal agencies, proportional representation in the Commons) which could give the West an enhanced voice in national affairs and sensitize the West to the requirements of national policy.

IV. Conclusion

This review began with the observation that Ontario benefits from the political and economic opportunity widely available within a balanced and co-operative federalism. It proposes a response to the prevailing adversarial and non co-operative federal-provincial climate in areas of common activity. Unilateral acts damage the mutual respect, reciprocity, and good faith necessary in federalism and set a destructive, wasteful and distrustful climate for governments which need to use limited revenues carefully and meet economic problems jointly.

It can be observed that this is not a new development in the history of Canadian federalism. In the late 1960's, the federal government was also unilaterally active in asserting and extending its powers, as was Quebec in seeking to withdraw from joint federal-provincial programs. One might therefore consider the present but a period in which governments are developing self-confidence in the cycle between centralization and regionalism. One might inevitably expect an upswing in the fortunes of intergovernmental relations and take no corrective action at this time. Certainly if federal action alone fails to stimulate economic recovery or Ottawa makes promises in provincial areas it is unable to keep, it may seek more collective action with provincial governments.

It is clear that any level of government which downgrades the importance of co-operation runs the risk of diminishing the effectiveness of public services and skewing federalism to merely a unitary or confederal state. Both consequences render government and service

delivery more difficult and less responsive. For example, the two most recent federal governments each in different ways abdicated their brokerage role and produced a much stronger development of a "province-first" trend in the country. This overview has presented several principles and actions which Ontario would contribute to lessen the sense of vulnerability or exasperations governments experience when engaged in negotiations and which tempt them to eschew co-operative federalism.

One cannot guarantee that any one government or year will see a suitable balance or flexible evolution. The obligation upon the Ontario government and its ministries is to be open to these options and to keep these options open. Ontario's long term interests are not met by the single-purpose pursuit of centralization or decentralization undertaken by some governments today. Specific Ontario objectives will vary according to the function and issue, but will constantly return to the question of whether sufficient good will and trust exists among federal and provincial governments to make possible the difficult task of two governments serving the same people.

B. Review of Functional Areas

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ADMINISTRATION OF JUSTICE

Issues

- There is a continuing problem of delineating federal and provincial activities in the justice areas. Ontario contests the federal government's broad interpretation of its policy responsibility, which the Province believes includes part of its joint responsibility under the Constitution for the administration of justice, e.g., the federal decision to act unilaterally on the McDonald Commission (RCMP) recommendations, the federal announcement to raise upper age limit for juvenile offenders to 18, revisions to the Criminal Code without adequate consultation.
- Also, the justice area presents cost-sharing difficulty as a result of a federal desire to reduce spending, e.g., exchange of services in corrections, or unilateral actions to reduce or cap the federal share of costs, e.g., legal aid.

Recent Events

- The Council of Provincial Attorneys General met in October 1981. This meeting was followed, in December, by the federal-provincial meeting of Ministers of the Criminal Justice System. At both meetings, the principal provincial concerns related to federal initiatives with respect to the creation of a civilian-run security agency and police powers resulting from the recommendations of the McDonald Commission Report. Other federal initiatives of concern were Freedom of Information (Bill C-43); crown privilege and exchange of confidential information between governments; the federal proposal to reform the cannabis laws.
- In February 1982, the Solicitor General of Canada announced that the federal government had decided to amend the Young Offenders Legislation (Bill C-61) to provide for a uniform maximum age of 18. The legislation passed the House of Commons in May 1982 and no date has yet been set for proclamation. While the legislation provides for federal cost-sharing, to date no federal-provincial discussions on cost-sharing have taken place nor do the provinces have any funding guarantees from the federal government for the additional costs resulting from the new legislation. It is estimated that additional costs would exceed by one hundred million dollars the current Ontario costs of administering the juvenile justice system, which in the Province operates on a maximum age of 16.

Emerging Issues

- Federal insistence on pursuing its own priorities has resulted in a lack of federal response to issues which have a primary impact on the provincial sphere of responsibility;
 - The existing federal-provincial criminal legal aid agreement expired in April 1981. The agreement was extended an extra year to permit federal-provincial negotiations. These negotiations have not taken place because of federal reluctance to respond to a provincial task force paper proposing new terms and conditions. The current agreement has the effect of penalizing Ontario as the cost-sharing formula does not adequately reflect the Province's costs.
 - A recent federal practice to address provincial concerns through Parliamentary committees, as evidenced by the federal suggestion that provinces should present concerns with proposed amendments to the Criminal Code and the Sexual Offences Act to the Justice and Legal Affairs Committee, also raises concerns. The Province welcomes the policy initiative but wants concerns dealt with on a government to government basis.
 - Provinces' desire to have their own specialized administrative tribunals, are continually frustrated by court challenges over the judicial interpretation of section 96 of the BNA Act. As a result, the provinces' ability to confer effective powers on administrative tribunals (Ontario, Residential Tenancies Act declared ultra vires by the Supreme Court of Canada) is restricted and the creation of unified family courts at the provincial court level (British Columbia, Family Law Relations Act, aspects declared ultra vires by the Supreme Court of Canada) is prevented.
 - Although the federal government is not opposed to the concept of specialized tribunals or unified family courts, it is reluctant to consider amendments to Section 96 which could restrict its actions.

CONSUMER AND COMMERCIAL AFFAIRS

Issue

- Jurisdictional overlap and ambiguity have distinguished the consumer and commercial affairs field. Although efforts have been made in the past to disentangle federal and provincial responsibilities, recent developments present the possibility of a further confusion of roles. The issue for Ontario is to ensure that preservation of provincial jurisdiction does not conflict with Ontario's support for a strong federal economic presence and the goal of reducing barriers to inter-provincial trade.

Recent Events

a) Competition Policy

- In May 1981 the federal Department of Consumer and Commercial Affairs put out a discussion paper outlining ways in which it proposed to amend the Combines Investigation Act and invited feedback from the provinces and business. The form of the document left little doubt that the main lines of competition law reform had already been established by Ottawa and that they formed part of a federal thrust toward greater control of the important economic levers.
- Two proposals of particular concern to some provinces involved moving much of competition enforcement from a criminal to a civil law framework (heretofore regarded as provincial jurisdiction) and using arbitrary measures of market-share to determine acceptable levels of competition.
- Ontario expressed general opposition to the arbitrary and interventionist character of the proposals. The issue was discussed at the Consumer Ministers' meeting in September 1981 where several provinces expressed reservations about the proposals. The federal minister has promised further consultation on draft legislation but neither the promised consultation nor the legislation has yet materialized.

b) Food Product Standards

- Federal jurisdiction in the area of food standards was narrowed by the Supreme Court decision in the Labatt's Lite beer case in 1979, leaving a potential regulatory vacuum in this area.

- Quebec has already served notice that their intention is to move into setting food standards. Most other provinces want to see a continued federal role through new legislation. Should many provinces move to set their own standards; this could pose new barriers to interprovincial trade.
- At the Consumer Ministers' Conference Mr. Ouellet stated he intends to re-write either the Food and Drug Act or the Canadian Agricultural Product Standards Act to remedy the situation. But the federal government has been slow to act on the issue so far, ostensibly because of disagreement between regulators and de-regulators in the Cabinet.

Emerging Issues

- Should the federal government introduce draft legislation on competition policy, Ontario will have to re-evaluate its strategy. Questions to be addressed will be whether to pursue further consultation on a bilateral or multilateral basis and whether to separate our non-negotiable concerns from areas where potential bargaining and trade-offs exist.
- The federal government has in the past considered action to give it the authority to govern the operations of securities markets on a national basis. This issue could re-emerge once competition policy reforms are taken care of. Ontario is concerned to avoid two-tier regulation in this field. To prevent this, harmonization of securities policy among provinces must continue to be ensured.
- Federal officials have been asked to study the problem of overlap of federal and provincial regulation of financial institutions. The provinces would like to see it on the agenda for the 1982 Consumer Ministers' meeting.
- The federal government has not yet moved to encourage the development of the transfer of funds (between stores and banks) by electronic transmission although a task force established by the Consumer Ministers is monitoring developments with a view to developing common standards. Jurisdictional tensions could arise if provinces which regulate regional communications carriers try to assert their authority in this area.

CORRECTIONS

Issue

- Harmonization of programs, services and institutions in the corrections field has been a leading consideration in intergovernmental and bilateral discussions. Harmonizations (exchange of services) could become an effective administrative means of reducing costs and improving efficiency by pooling the resources of the dual corrections system.

Recent Events

- At their meeting in December 1981, federal and provincial Ministers of Corrections discussed but did not agree on two aspects of the exchange of services issue: housing female offenders, and the per diem rates.
- In December 1981 the Canadian Human Rights Commission ruled that the corrections system discriminates against women. Because of their small numbers, federal female prisoners are housed in one institution and because of numbers do not receive rehabilitative training to the extent available to male prisoners.
- The one solution (apart from jurisdictional reform) devised to date is for the provinces to house federal female offenders in provincial institutions. The stumbling block in Ontario is the issue of per diem costs. Ontario wants a per diem rate based on average costs plus 10%. The federal government favours an incremental costs formula.

Emerging Issues

- Federal and provincial officials have been asked to continue efforts to reach an agreement on exchange of services. The advantage of the costing formulae is tied to circumstances i.e., whether a government buys or sells services.
- Federal emphasis on visibility and accountability combined with financial constraints make exchange of services an attractive option to avoid duplication and respond to female offenders' issue. The impasse in Ontario is unlikely to be resolved until there is general recognition that benefits of harmonization merit a compromise on the funding issue. The challenge to the Province is to demonstrate to Ottawa that the long term benefits of harmonization merit reconsideration of the federal offer.

EMERGENCY PLANNING

Issue

- The federal government continues to press for joint planning for both peace and wartime preparedness and a sharing of the financial responsibility. In addition it has declared its intention to enact legislation powers during peacetime in areas normally within provincial jurisdiction. The federal position is based upon the opinion that both peace and wartime preparedness planning are shared jurisdictions. Provinces oppose that view and continue to press for a definition of respective jurisdictional responsibilities.

Recent Events

a) Draft Memorandum of Understanding (MOU)

- The federal government is anxious to sign a joint planning memorandum of understanding which sets out the responsibilities of both orders of government to plan for emergencies according to a uniform standard. The MOU suggests that responsibilities broadly parallel constitutional responsibilities and that where there is jurisdictional uncertainty, joint planning is the most effective way towards efficient preparedness.
- At issue is responsibility for wartime preparedness. From Ontario's point of view the MOU needs amendment to make clear that the funding burden for planning for war rests with the federal government and that agreement in principle to joint plan for emergencies does not imply an agreement to share the financial burden.

b) Joint Emergency Planning Program (JEPP)

- In 1981 the federal government unilaterally cancelled the Financial Assistance Program and replaced it with the Joint Emergency Planning Program. The program, requires a provincial contribution to match federal funds for federally determined priorities. Serious take-up problems have forced Ottawa to forego provincial contributions or accept contributions "in kind". Ottawa has indicated that as a result of poor response by provinces, JEPP will be reviewed and redesigned.

c) Emergency Planning Order in Council

- In May 1981 the federal government passed an Order in Council on Emergency Planning without provincial consultation. Provinces expressed concern that the Order, designed to replace a 1964 planning Order, enables federal Ministers to plan in areas of provincial control and authority in peacetime. The Order is a planning order and requires enacting legislation before action beyond planning can be taken. Enacting peacetime legislation is not expected before fall 1982.

Emerging Issue

New Peacetime Emergencies Legislation

- In 1981, the federal Minister outlined his intention to introduce new federal peacetime emergency legislation to deal with three broad classes of emergencies which would significantly expand present federal legislative powers in the case of a peacetime emergency. Legislation of such a broad nature could preempt the constitutional authority of the provinces as well as suspend the rights and freedoms guaranteed by the Charter during peacetime. Provinces have requested federal-provincial consultation on draft peacetime emergencies legislation before introduction into Parliament. The federal government has agreed in principle, but no date or location has been determined.

FREEDOM OF INFORMATION

Issue

- Progress on the federal Access to Information Act (Bill C-43) and an Ontario White Paper on freedom of information and personal privacy was halted while consideration was given to a provincial proposal to draft a completely new federal bill which would apply to both orders of government.

Recent Events

- Originally introduced in July 1980, Bill C-43 was given second reading in January 1981 and had undergone extensive debate in committee when hearings were suspended in November 1981.
- Draft Ontario legislation resulting from recommendations the Report of the Williams Commission on Freedom of Information and Individual Privacy (tabled in August 1980) was delayed by the March 1981 provincial election and a subsequent Cabinet shuffle. More recently, development of a provincial bill has been affected by events related to the federal act.
- Throughout the fall of 1981, provincial attorneys general (led by Ontario and Saskatchewan) mounted a concerted attack on the federal bill, objecting in particular to the removal of Crown privilege, especially with respect to law enforcement information, and to the potential release by the federal government of information on areas of provincial jurisdiction.
- Early in the New Year, the federal Minister of Communications, who is responsible for Bill C-43, agreed to consider a provincial suggestion that there be a uniform act for all levels of government. Six provinces subsequently rejected the idea of uniform FOI legislation.

Emerging Issues

- Bill C-43 was brought before Parliament for final reading at the end of June 1982. The FOI legislation was subject to government amendment before passage; a much broader list of Cabinet materials was exempted and Cabinet Ministers' right to withhold documents from the courts when Cabinet confidentiality is concerned was maintained.
- With the federal Access to Information Act in place, the onus will shift to Ontario and other provinces to take similar legislative action. Pressures will likely be for fewer exemptions to provincial laws.

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ABORIGINAL PEOPLES

Issue

- How to resolve or deal with current Indian/native issues without setting precedents or jeopardizing an Ontario negotiating position in forthcoming constitutional discussions.

Recent Events

- The Constitution Act 1982 includes three provisions respecting aboriginal peoples:
 - Section 25 protects treaty and aboriginal rights from the application of certain sections of the Charter where a conflict exists,
 - Section 35 guarantees existing aboriginal and treaty rights; it defines aboriginal peoples as Indians, Métis and Inuit but does not identify or define aboriginal or treaty rights,
 - Section 37 provides for a First Ministers meeting with aboriginal leaders within one year of patriation to identify and define aboriginal and treaty rights in the constitution.
- In May 1982, a federal-provincial meeting of Ministers with responsibility for Native Affairs discussed the implications for the provinces of band self-government, and how to head off further unilateral federal withdrawal of services to status Indians on and off-reserve. In preparation for this meeting, the provinces produced a report on services, band government and other issues and held several meetings at the ministerial and officials level.

Emerging Issues

- The Ontario Cabinet prefers political rather than court settlement of the claims of the aboriginal peoples, and this settlement, together with the federal Indian Band Government initiative, and intent to divest itself of program responsibility for status Indians will require a comprehensive provincial response. This response will have implications for the Province's position on Métis proposals. While the constitution defines aboriginal peoples to include Métis, the federal government is unwilling to include the Métis within the federal ambit.

AGRICULTURE

Issue

- Agriculture is constitutionally a shared jurisdiction which has resulted usually in harmonious allocation of federal and provincial roles. Recent failure of federal leadership in stabilization and farm credit has obliged provinces to provide assistance to producers. This adds burdens on provincial treasuries, increases interprovincial competition, and distorts markets. Where new federal initiatives are being pursued as in food production, research, and marketing, it is vital for Ontario to retain sufficient control to ensure that its priorities can be met.

Recent Events

a) Farm Credit

- Farm financing has traditionally come from the federal Farm Credit Corporation (FCC). Funds are now inadequate to meet current demand for low-interest farm loans and a number of provinces have reluctantly entered the field. Ontario's Farm Adjustment Assistance Program provides for interest guarantees and short-term interest reduction grants.*
- The federal government has now introduced legislation to expand farm credit by permitting the FCC to raise funds in the private markets. Loans will be guaranteed by the federal government. Federal officials are confident that this initiative will resolve the credit shortage and reaffirm the primacy of the federal role but it is not likely to relieve the provinces of demand for assistance since the expanded fund does not provide for interest reductions.

b) Stabilization

- At the Agriculture Ministers meeting in July 1981 the provinces pressed the federal Minister to put forward a national stabilization plan for hogs which would eliminate the need for provincial plans and to study the possibilities of a stabilization plan for beef. Consensus on such national plans has been made more difficult by interprovincial variations in production costs, by the federal Department's difficulties in getting funds from Treasury Board, and by the federal Minister's philosophical commitment to introducing some form of supply management despite producer resistance. As with credit, the short-term financial burden has fallen on the provinces.

* The June 1982 federal budget announced increased federal funding assistance for farmers.

Emerging Issues

a) Over-base Quota Allocation in National Marketing Plans

- Increasing tensions between provinces over allocation of over-base quota by national marketing boards threaten the smooth operation of these agencies. The Canadian Egg Marketing Agency and Canadian Chicken Marketing Agency have made proposals for allocating over-base production and both are unacceptable to Ontario. Since these are federal agencies, the federal government has on occasion stepped in to override agency plans. However, since provinces such as Alberta strenuously object to this "intervention", it is preferable to work toward agreement among the agency's signatories.

b) Agrifood Strategy

- The federal government introduced a comprehensive strategy paper for food research, production, and marketing at the 1981 Agriculture Ministers' meeting. The paper clearly states that the federal government plans to play a dominant role in this area of shared jurisdiction. The specific proposals are not yet worked out and further consultation will likely take place but the thrust is toward federal planning and priority-setting. Ontario will have to prevent jurisdictional ground being conceded to avoid the possibility of being faced with unsatisfactory federal policies in the future.

COMMUNICATIONS

Issue

- Virtually no progress was made by the provinces last year in their attempts to achieve a more active policy role in communications. Major regulatory decisions on access to satellite services and pay television have actually tended to consolidate the nearly exclusive federal jurisdiction in this field. On the other hand, several lower court decisions (all now in appeal) have favoured provincial claims to authority over certain aspects of cable services.

Recent Events

- a) Federal-Provincial Conference
 - At the federal-provincial Ministers' conference in September 1981, the federal Minister carefully parried provincial jurisdictional demands and built a strong case for increased cooperation, based on the economic benefits which would ensue. Mechanisms were established for officials' discussion of the pay-television issue and of a means to deal with regulatory matters affecting more than one province. Little has come of the meetings on pay-TV; however, the task force on joint regulatory mechanisms has produced a report which recommends ways to achieve greater regulatory harmonization.
 - The fragile provincial common front has splintered, partly because the federal government was largely successful in ignoring it and partly because of the spill-over effect of interprovincial tensions resulting from the constitutional and energy negotiations. Confrontationist multilateral meetings have given way, in Ontario's case, to limited bilateral discussions with Ottawa of a more cooperative nature, with a strong emphasis on economic effects and interests.
- b) Decisions of the Canadian Radio-Television and Telecommunications Commission (CRTC)
 - In August 1981, the CRTC directed federally-regulated carriers to renegotiate their revenue settlement agreement with other members of the Trans-Canada Telephone System (TCTS), in such a way as to reduce inter-regional cross-subsidization. By doing so, the CRTC is in effect infringing on the revenues of provincially-regulated carriers. At the same time, it also ordered Telesat to revise its rates, to allow direct access by all customers

to its services and to offer partial channel service. Late in 1981, the federal Cabinet varied this aspect of the CRTC decision and re-established the need for business users to deal through approved common carriers for Telesat services. As a result, competition in the telecommunications industry continues to be discouraged and the introduction of new services (over some of which the provinces claim to have authority) are restricted.

- In March 1982, the CRTC announced its decision to grant licenses to six pay-television networks (one national, three regional, one multilingual and one performing arts). In large part Ontario supports the decision, as the province has long argued for a market-competitive approach. Furthermore, federal and Ontario policy objectives in terms of Canadian content, stimulation of the Canadian program production industry and availability of bilingual services are broadly similar.

Emerging Issues

- Notwithstanding Ontario's general endorsement of the federal approach to national and regional pay-television networks, a major dispute over local closed-circuit non-broadcast services is imminent. All provinces have taken the stand that distribution of such services (of which pay-TV could be an example) falls under provincial jurisdiction. The federal government maintains that any services carried on cable come under the authority of the CRTC. In fact, an Ontario cable television operator offering a completely closed-circuit pay-TV service in the Fergus-Elora area has challenged the CRTC's authority in the courts. Other legal decisions with implications for federal jurisdiction over communications are also pending.
- Because no progress was made on the pay-TV issue at the May 1982 Conference of federal and provincial Ministers, a negotiated solution to the matter is more remote than ever. Jurisdictional claims by both orders of government to closed-circuit services will likely now be settled in the courts.
- Ontario has had some success in exploring possibilities for cooperation with the federal government on projects with economic benefits for the province's communications industry - in particular projects related to the emerging "information society" (e.g., office automation, transborder data flow).

ENERGY

Issue

- With the National Energy Program (NEP) and the natural resource provisions of the Constitution Act (Part VI), the federal government has asserted its presence in the energy field. That now achieved, conservation and renewable energy were intended as the next federal initiatives, but weakness in the economy and the subsequent drop in world oil prices required the federal government to review the NEP and provide further incentives to the oil and gas industries.

Recent Events

a) National Energy Policy

- The federal government in July 1981 introduced its legislative package to implement the NEP: the Canada Oil and Gas Act (enacted in November 1981), and the Energy Security Act. The two original pieces of legislation (the Energy Security Act is now divided into several acts) place emphasis on exploration and development in those areas where the federal government has jurisdiction (Canada lands, offshore) and where revenues flow almost entirely to the federal treasury. The Energy Security Act will also give the federal government a larger role in the gas field and secure a role in electricity similar to oil.
- Federal-provincial agreements on energy pricing (for the next five years) were concluded with Alberta, British Columbia (September 1981) and Saskatchewan (October 1981). Unlike earlier agreements, the federal government established a major tax regime which had been the source of the prolonged stalemate.
- The economic recession and the consequent moderation of world oil prices, produced a federal update of the NEP on May 31, 1982. It constituted a moderate improvement to the cash flow of oil companies (taxation and pricing relief worth \$2 billion), but the government did not back away from its Canadianization goals. The measures affecting development give the greatest benefit to small producers. Ontario will benefit because its producers are small scale and because of federal indications of relief to consumers by adjustment of prices.
- In order to fund the new measures, Ottawa cancelled the Municipal Energy Management Program (MEMP) proposal thereby backing away from conservation initiatives in the face of revenue shortfalls from NEP initiatives.

b) Offshore Oil Negotiations

- Negotiations were begun on the offshore agreements with Newfoundland and Nova Scotia (October 1981). Both provinces set aside constitutional arguments in favour of administrative arrangements to manage resource development and revenue sharing, although Newfoundland took the position that any agreement should be entrenched in the constitution. Nova Scotia reached an agreement in February 1982. There will be revenue sharing with the provincial share decreasing as the revenue generating capacity of Nova Scotia rises to the point where it would not receive equalization payments. Newfoundland suspended discussions because both sides subsequently disputed whether ownership or revenue sharing was the issue. The issue is now before both the Supreme Courts of Newfoundland and Canada.

c) Constitutional Provisions

- The Constitution Act contains provisions on non-renewable natural resources intended to clarify the scope of respective federal and provincial authority. It provides for shared jurisdiction with federal paramountcy in interprovincial trade and commerce, allows provinces to levy interest taxes on these resources under certain limits, and defines hydro-electricity as a natural resource, and therefore potentially subject to similar federal regulation as oil and gas respecting extra-provincial activity.

d) Mega Projects

- Ottawa's November 1981 economic development strategy was based upon resources and energy mega project developments. The drop in world oil prices, combined with high interest rates, and the lower than expected NEP revenues have led to the cancellation of large energy projects (i.e., Alsands and the Cold Lake pipeline). Rather than abandon their approach or reexamine the premises of the NEP and the Economic Development Strategy, Ottawa has turned its focus towards eastern offshore oil and gas mega-projects.

Emerging Issues

- Because of or despite the energy agreements, the federal government seems to prefer bilateral meetings, making informal interprovincial contacts and liaison increasingly important in order to ascertain the national picture. Quebec's policy of eschewing interprovincial meetings terminated its chairmanship of the Provincial Energy Ministers Conference, rendering difficult any multilateral federal-provincial initiatives as had been proposed by Ontario in October 1981.
- Ottawa remains committed to off-oil and conservation programs although it lacks funds at this time. The Province will need to decide how and where to accept a federal presence. Ontario has had some success on a case-by-case basis.

ENVIRONMENT

Issue

- Jurisdiction and roles in environmental protection and management continue to be the subject of federal-provincial disagreement. Although there has been a useful level of cooperation between the two levels of government, fundamental areas still remain entangled.
- It is vital that governments continue to work out questions of responsibility and ensure that efforts are coordinated to develop and maintain standards, particularly because anything less only confuses growing public involvement in these matters.

Recent Events

a) Pesticides

- Because of its involvement in the licensing process, Ontario needs all relevant data on pesticides. A federal-provincial agreement has been reached on sharing federal data on scientific testing of pesticides, and a committee of federal and provincial officials has been established to look into roles and responsibilities.

b) Toxic Substances

- A report to the Canadian Council of Resource and Environment Ministers on toxic substances and their regulation listed eleven recommendations focussed on the need to have greater federal and provincial collaboration to analyse effects existing substances, and control use and disposal of chemicals. An implementation committee will be chaired by Ontario.
- However transboundary issues concerning toxic substances have been very controversial. The debate over responsibility for these matters has prevented any conclusion on renewing the Canada-Ontario Accord for the Protection and Enhancement of Environmental Quality.

c) Hazardous Waste Management

- The management of hazardous wastes (e.g. PCBs) has been a contentious issue between the Ontario and federal governments. All parties are concerned to find treatment and disposal facilities, but national guidelines are being prepared which may not be sufficient for the Province's needs. However, there has been cooperation when action has been urgently required. Technical, legal, and policy resources were pooled to deal with clean-ups in the Niagara River and to maintain surveillance of Hyde Park and Love Canal.

d) Acid Rain

- Long range transport of air borne pollutants/acid rain has been the subject of some Ontario-Canada controversy, particularly with regard to the extent of Ontario's involvement in defending our position in the U.S. A management committee with membership from the federal government, Ontario, Quebec, New Brunswick and Manitoba departments of Environment will develop negotiating strategies and ensure that required research is carried out. Ontario's Ministry of the Environment is currently developing a major policy paper on acid rain which will deal with this Province's role vis-à-vis the federal government, other provinces and other jurisdictions.
- Ontario has expressed two-fold opposition to the federal national emission standards for coal-fired thermal plants: these standards were published without adequate consultation with the provinces and they are guidelines with no flexibility, or capacity to take a case-specific approach. Environment Canada attempted to apply its standards in its interventions before the National Energy Board hearing on Ontario Hydro's application to export electricity to the U.S.

Emerging Issues

- Acid rain negotiations, both internationally and interprovincially, will continue to be subject to federal-provincial negotiations. Ontario's forthcoming policy paper should help to clarify matters.
- Determination of provincial and federal roles in low level radioactive waste management will be contentious. For discussion of this, see the Uranium Policy section.
- Ontario claims there is an inequity in federal pesticide registration. Pesticides registered for agricultural purposes are much stronger and potentially more hazardous than the one foresters are allowed. Agriculturalists already have an urgent need for effective substitutes for banned products.

FISHERIES

Issue

- With a continuing shift of federal emphasis to coastal fisheries, Ontario is being left with the responsibility to finance and manage inland fisheries -- a de facto shift of jurisdiction with no negotiation of terms and conditions.

Recent Events

- The federal government has a comprehensive review of fisheries policy under way. Although this is consistent with the emphasis the federal economic development policy has placed on the resource sectors, it more immediately reflects the need to respond to the foundering Atlantic fishery. Michael Kirby (to become DM, Fisheries) is heading a task force examining the Atlantic fisheries. The report should be completed this summer.
- In response to the federal emphasis on coastal fisheries, increasing manpower and dollars have been reallocated from inland fisheries to the coasts (the argument is restraint). Federal publications on inland fisheries increasingly imply the responsibility for management of inland fisheries rests with the provincial government. In response to these developments, Cabinet has directed the Ministries of Natural Resources and Environment to pursue negotiations with the federal government for the delegation of authority of additional pertinent sections of the Fisheries Act to enable the province to manage inland fisheries more completely.

Emerging Issues

- Federal-provincial negotiations on delegation of authority for the Fisheries Act should be the key issue in 1982-83. Ontario's position has not yet been presented to the federal government.
- The provincial initiative is consistent with Ontario's constitutional position on fisheries. The federal constitutional position (1980) indicated a readiness to transfer jurisdiction over inland fisheries. Delegation would be a step toward the constitutional position and would clarify roles and responsibilities.
- However, the federal government may attach conditions to delegation - as per the federal constitutional position and the current federal pursuit of visibility and accountability. Federal safeguards for native fishing rights and fish habitats are the ones likely to be contentious. But the federal government could actually oppose delegating those sections which have been among the principle legislative bases for federal involvement in water pollution control.

FORESTRY

Issue

- Whether the federal government will commit funds to forest management (including fire control) while respecting existing provincial jurisdiction.

Recent Events

- The federal Forest Strategy for Canada - tabled in September 1981 - is consistent with the Forestry Imperatives Report endorsed by CCREM in 1980. Although the strategy included a federal proposal to share costs of forestry renewal on a transitional or short-term basis (with industry and the provinces) no specific funding mechanism was advocated.
- Provinces are seeking federal funding to enable them to improve forest fire control. At CCREM, Ministers agreed to improve forest fire research and training programs and to create a national information centre to permit sharing manpower and equipment among various regions of the country. In March 1982 agreement was reached on interim arrangements for a Fire Centre which will be located in Winnipeg. Funds will cover this season's operation only. The federal government and all provinces except Quebec will participate and share costs.
- At CCREM, Ontario with support of all the provinces pressed for (1) the judicious use of chemicals (pesticides/virus) in forestry management and (2) the equitable treatment in the federal registration of chemicals for use in agriculture and forestry. The federal government agreed to work toward a resolution of this issue. A federal-provincial task force was established to expedite the pesticide registration process.

Emerging Issues

- With federal economic policy emphasis on natural resources, a sector strategy has been developed for forestry providing for federal initiative in areas of federal jurisdiction, i.e., R & D, manpower, trade. Federal initiatives in areas of provincial jurisdictions will be highly conditional, e.g., proposal for forestry funding, forest fire control, will demand federal visibility and accountability, and will increase pressure for greater provincial spending. The federal intention (as voiced at CCREM) is to pursue bilateral not multilateral federal-provincial discussions. Given federal restraint, this is one guarantee that there will be significant fund available.

INDUSTRIAL DEVELOPMENT

Issue

- In 1981 the federal government aimed to establish federal leadership and preeminence over industrial development through an economic development strategy based on resource development priorities. Few specific federal initiatives have been undertaken pending an administrative reorganization, lack of funds and the decreasing viability of many of the mega-projects. The emphasis on resource developments and Ottawa's goal to influence the geographic distribution of industrial activity, has tended to neglect Ontario's industrial adjustment needs.

Recent Events

- a) Economic Development for Canada - November 81 Budget Paper
- Federal economic development in the 80's is to be based on resource developments, and western infrastructure development i.e., mega-projects and their spin-offs. Transportation was singled out as a major priority for western economic development. Quebec would be provided with research and development assistance towards industrial restructuring, while eastern provinces would receive their traditional support for regional development. Ontario's problems of industrial adjustment were played down. It was to benefit from mega-project spin-offs.
- The mechanisms proposed by Ottawa for maximizing the industrial benefits resulting from major projects may provide the federal government with a vehicle for deflecting those benefits to selected regions of Canada, possibly out of Ontario. Given the lack of an industrial adjustment program which sufficiently meets Ontario's identified priorities, there is continuing pressure on Ontario to fill the gap.

b) Federal Reorganization

- In January 1982, to implement the new regionally focused economic development strategy, the federal government announced a major administrative restructuring of the economic departments and the Cabinet decision-making process. The main element was the establishment of a new Department of Regional and Industrial Expansion by combining the old Departments of Regional Economic Expansion and Industry Trade and Commerce. At the regional level a system of regional offices were established to be headed by a Federal Economic Development Coordinator.

- On the surface, the restructuring appears to signal a more active federal role as manager of the country's economic development in the regions. What remains unclear is where the provinces fit into the new federal policymaking process, i.e., are they to be treated as one of the economic interest groups in the region.

c) Office of Industrial and Regional Benefit

- The Federal Office of Industrial and Regional Benefit was established to maximize the industrial benefits resulting from major projects and can be viewed as an additional constraint in the marketplace. It was established without provincial consultation although provinces do sit on the review committee.
- While the Office is only mandated to deal with private sector procurement on Canada Lands, officials have expressed their intention to use moral suasion to achieve federally determined regional development goals where they have no jurisdiction. The Office would like to see the Province submit its major projects for their consideration. The implications of voluntary compliance by the Province will have to be considered.
- The Office provides Ottawa with a vehicle for discretionary interventions and the potential arbitrary deflection of industrial activities to selected regions other than Ontario.

d) Foreign Investment Review Agency (FIRA)

- To ameliorate negative foreign investment concerns exacerbated by the National Energy Program, the federal government stated in the November 1981 budget* that proposed legislative changes to strengthen the role of FIRA would not be enacted until the government has evaluated progress on major initiatives already undertaken. Administrative procedures are being assessed concerning timeliness and efficiency. Ontario continues to support the removal of impediments to the flow of foreign investment to Ontario through a streamlining of the process and a minimization of the agency's discretionary authority.

* Further changes were also announced in the June 1982 budget.

e) Import Replacement

- The results to date of the import replacement program for medical and health care products have been very encouraging. All provinces and the federal government have agreed to embark on a second cooperative effort to increase the Canadian share of six categories of goods purchased by governments and public institutions.

f) Public Sector Procurement

- A number of proposals have been put forward at the federal and provincial levels to develop coordinated purchasing arrangements. At the September 1981 Ministers meeting, Ottawa's proposal for the establishment of a National Cooperative Supply Agency was rejected on the grounds that provinces were not prepared to have their procurement activities controlled by Ottawa's priorities. Ontario continues to support the establishment of a mechanism for coordinating purchasing where cost savings and support of new Canadian suppliers can be achieved.

Emerging Issues

- The recent slowdown in economic development initiatives, particularly the cancellation of a number of mega-projects, has thrown the federal economic development strategy with its focus on resource industries into question. The strategy had tended to neglect Ontario and its high concentration on manufacturing industries. The scope of the present problems will require the federal government to reconsider its economic development strategy. Ontario is not likely to benefit from spin-offs from mega-projects as much as had been expected. The challenge before Ontario will be to press Ottawa to diversify the focus of economic development policy and initiative, to address Ontario's industrial adjustment needs, at the same time as federal revenues are stagnant and its deficit substantial.

LABOUR AND MANPOWER

Issue

- Federal long-term efforts have been directed toward the revamping of training and unemployment insurance systems. These areas involve jurisdictional overlap and the potential for federal-provincial conflict.
- The current economic situation has forced greater focus on job creation programs, work sharing and more recently on wage controls, increasing the need for coordination of federal and provincial activities.

Recent Events

a) Training

- After one-year extensions (from March 31, 1981 to March 31, 1982) to the federal-provincial training agreements under the Adult Occupational Training Act (AOTA) were signed, the federal Minister of Employment and Immigration initiated a major overhaul of the training system by tabling for consultation the federal Report of the Task Force on Labour Market Developments in the 1980's. The Task Force proposed a redirection of federal funding from post-secondary education and lower level skill training to programs for highly skilled trades, improved mobility assistance and a variety of special measures to facilitate the entry and advancement of women, native people and the disabled in productive jobs.
- At a federal-provincial conference in September 1981, the provinces recognized the validity of the Task Force's analysis of future labour market trends and its goal of improving the match between people and jobs. They were also unanimous in challenging the report's means of achieving this goal as intruding on provincial jurisdiction over education.
- At a second federal-provincial Ministers conference in January 1982, the federal Minister presented proposals for a new National Training Act to be in place by March 31, 1982. In the face of strong objections by the provinces to both the process of consultation (Ottawa's proposed policies were released to the provinces five days before the meeting) and much of the substance of the proposals, the deadline for the legislation was deferred and the training agreements extended for a further five months.

- Bilateral negotiations, begun in February, have produced some positive results for the Province. Ottawa needs Ontario's labour market forecasting expertise and training infrastructure in order to realize many of the goals of its National Training Program. As a result, Ontario has persuaded the federal government to modify some of its manpower training plans in such a way as to address the Province's priorities more closely.

b) Unemployment Insurance

- The Report of the Task Force on Unemployment Insurance in the 1980's was tabled in July 1981; it called for a renewed emphasis on unemployment insurance as a labour market adjustment measure and changes to simplify the system, improve service to the public and reduce the federal government's program costs.
- As expressed at the September Ministerial conference, the provinces' chief concern was related to the effect of increased unemployment insurance restrictions on provincial social assistance schemes (this was most acutely felt by Quebec and the Atlantic provinces). The economic downturn has resulted in Ottawa's delaying any unemployment insurance changes, although most have received Cabinet approval and are expected to be legislated late this year.

c) Human Resource Planning

- The November 1981 federal budget clearly linked Ottawa's industrial strategy with Canada Employment and Immigration Commission (CEIC) measures to upgrade human resource planning capacity in Canadian industry. National manpower planning agreements have been signed between the CEIC and associations representing the aerospace, mining and shipbuilding industries as well as the engineering profession. These agreements commit the CEIC to provide financial support for training, within budgetary and statutory limits, and the industry associations to provide equal opportunities for disadvantaged groups.
- The Ontario Manpower Commission is also involved in assisting companies with manpower planning; improved federal-provincial consultation and coordination are needed in this area.

d) Federal Employment Strategy

- Late in December 1981, the federal Minister of Employment and Immigration announced a \$50 million emergency assistance package to help laid-off workers. Many of the proposed measures involve the use of unemployment insurance funds to save old jobs or create new ones. Some require intergovernmental coordination and cooperation (e.g., expansion of the Canada Community Development Program).

Emerging Issues

- The new National Training Act was passed early in July; the provinces, and particularly Ontario, were successful in having the legislation amended to reflect more provincial involvement, although the federal government still has the final word. Training agreements are now being negotiated with each province and will take effect September 1, 1982. Ontario will thus have to move with dispatch to adapt its institutional training system and devise industrial initiatives in such a way as to attract maximum federal funding and cooperation, while achieving provincial manpower training priorities.
- In connection with pending changes to the Unemployment Insurance Act, the chief task for the province will be to ensure that savings realized by the federal government in program costs are used for economic development purposes, particularly in the manufacturing sector.
- In the area of human resource planning and forecasting, closer intergovernmental coordination will be critical, if Ontario is to satisfy its own labour market demands.

MINING

Issue

- The tabling of the federal government's Mineral Policy discussion paper raised the issue of an expanded federal role in the nonfuel mineral sector.

Recent Events

- The Federal Mineral Policy discussion paper, released at a January 1982 Mines Ministers Conference, is part of the federal economic development strategy. It attempts to define a federal role in the nonfuel mineral sector, calling for greater participation in research, development and promotion in this sector.
- For the most part, the initiatives are in areas of federal jurisdiction (or grey areas) and in areas where the federal government has traditionally acted or has been requested to take action (e.g., research and development, promotion of the mining equipment industry). Some of the proposed initiatives would duplicate activities already carried out by Ontario, but this would not be true for most of the other provinces.
- Provinces have criticized the document for not dealing with issues such as taxation and investment climate as factors of federal policy most critical to the mining industry.
- The federal and provincial Ministers have agreed to study two of the issues further: the special problems of communities dependent solely on the mining industry, and mining taxation - especially assistance to junior mining companies. Reports are to be ready in September 1982.

Emerging Issues

- As a result of the federal budget of November 1981, taxation of the mining industry and of northern workers will continue to be a contentious issue. Although Energy, Mines and Resources Canada has shown some sympathy with the provincial position, Finance Canada is not in favour of using the tax system for purposes other than taxation and would like to remove rather than increase tax incentives. Possible discouragement of foreign investment because of FIRA regulations will also remain contentious.
- The federal government is in the process of negotiating bilateral mineral agreements in replacement of DREE agreements. It has been bargaining so far with only some of the provinces. Ontario is concerned that the agreements reached with other provinces could be detrimental to Ontario's interests.

MUNICIPAL AFFAIRS AND HOUSING

Issue

- The federal government has been unwilling to consult on housing issues, preferring unilateral tax style programs, directly reaching the public, to joint programs. In the municipal sphere, the federal government's goal is direct delivery and increased visibility under the umbrella of agreements rather than joint federal-provincial programs.

Recent Events

- In June 1981, federal and provincial Housing Ministers met for the first time in three years. The federal Minister made it clear that he was only there to deliver the Finance Minister's message of fiscal restraint and cutbacks in transfer payments to the provinces.
- As part of the November 1981 budget the federal government announced a federal rental program allowing a \$7,500 interest-free loan per unit for rental construction to a total of 10,000 units at a cost of \$2 million in Ontario. Ontario felt the federal program was not rich enough and proposed a joint or piggy-back cooperative program to enrich the federal program. Ottawa rejected Ontario's proposal preferring to go it alone indicating that Ontario could go ahead with a complementary but completely separate initiative if it so chooses.

Emerging Issues

- In municipal affairs the federal government has been leaning towards programs which channel money directly to municipalities. However, Ottawa has been seeking federal-provincial agreements to deal with municipalities, somewhat recognizing provincial jurisdiction in the municipal sphere. An example is the Municipal Energy Conservation Program under which the federal government sought provincial input on program design and conditions. (The federal government cancelled this program on May 31/82.) A second example is the Joint-Emergency Planning Program. For more details see the section on Emergency Planning.
- Due to increasing public pressure on the federal government to provide some form of relief from high interest rates and to provide stimulation in the housing industry, it is expected that the federal government will announce new housing initiatives in the near future. While there have been signs that there may be some consultation, indications are that Ottawa will choose a unilateral rather than a joint approach.

REGIONAL DEVELOPMENT

Issue

- The federal government intends to exercise a more direct, independent role in regional development. The issue for Ontario is to ensure that the new federal thrust towards regional and industrial development takes into account Ontario's priority to secure more regional development funding to deal with the structural problems Ontario is facing.

Recent Events

a) Federal Reorganization

- A reorganization at the federal level combining DREE with the Department of Industry Trade and Commerce creating a new Department of Regional and Industrial Expansion has changed both the players and the priority of regional development. The integration is meant to provide a strong basis for the development of regionally responsive industrial policies and programs. What has resulted is a certain amount of confusion and inaction at the federal level pending the clarification of the mandate of the new Department. The Province has tried to seize the new situation as an opportunity to influence federal thinking during the evolutionary stage, with proposals which respond to the federal thrusts tailored to suit Ontario's priorities. In the interim, a number of new agreements and initiatives await federal approval.

b) Tourism Development Agreement

- After considerable negotiation on a DREE/Ontario Tourism agreement the federal government informed the Province in August 1981 that it was not interested in sectoral agreements but preferred that tourism components be added to existing or proposed agreements (Eastern Ontario, NORDA and mid Ontario). Recent changes in the federal approach suggest that Ottawa may again be receptive to a sectoral Tourism agreement; therefore Ontario has made renewed efforts to sign a full tourism development agreement.

c) Development Agreements

- While no agreements were signed in 1981, negotiations have led to two agreements which await signature: Sault Ste Marie (\$69.6 million) and Pembroke (\$21.25 million). The provincial share of these two projects totals approximately \$35 million while the federal contribution is \$29 million, the remainder to be paid by the municipalities.

d) Special ARDA

- The federal government has proposed a Special ARDA for Ontario which would involve a range of socio-economic development measures aimed at reducing the employment and income gap between the native population and other Ontario residents. The Provincial Secretariat for Resources Development has developed a provincial negotiating position which still requires political approval. Once consensus has been reached between the two levels of government on program details, consultation with native groups will be scheduled.

Emerging Issues

a) Termination of GDAs

- With the new federal reorganization came notice that existing General Development Agreements and Subsidiary Agreements would expire at their end to be replaced by "new and single sets of agreements". Money freed up as GDAs expire will create a Regional Fund to reach \$200 million by 1984-85 to be used nationally by the new federal Cabinet Committee on Economic and Regional Development to support special regional economic development efforts. What this points to is the abandonment of joint development programing in favour of more discretionary unilateral federal program activity.

b) Venture Investment Program

- The province and the federal government are in the process of developing a program based on a DREE proposal for community and industrial renewal designed to address current economic adjustment problems in Ontario. Under the proposed five year program, \$100 million would be allocated by Ottawa and \$10 million by the province. Ontario regional DRIE officials are awaiting a proposal from Ontario before seeking approval from MSERD and Cabinet. The shape of the new program will set a precedent for future program development in this area. Its acceptance or rejection by DRIE will signal Ottawa's commitment to joint programing. The key from Ontario is to secure federal funds for industrial adjustment respecting provincial priorities without jeopardizing program approval at the federal level.

c) Mid-Ontario Initiative

- Following an August 1981 meeting between the Treasurer and the federal DREE Minister, staff were directed to develop a subsidiary agreement for "mid-Ontario". Programs have been developed in five identified sectors. Reaction to Ontario's proposal at preliminary discussions has been generally favourable although the size of the package (\$80 million) was considered somewhat excessive by DREE. Given the new federal thrust in regional development, however, it is unclear whether this project will continue to be a federal priority.

TRANSPORTATION

Issue

- 1981 was marked by a continuing federal thrust to redefine its responsibilities and activities. As a result, the Province is pressed to assume financial responsibilities for service gaps created by federal withdrawals in the transportation field (e.g., VIA). Activity to realign, reassess, and generally overhaul federal programs has taken place across all modes.

Recent Events

a) Air

1. Domestic Air Carrier Policy

- A new federal draft policy would limit the number of national carriers to CP and Air Canada and divide the country into two regions, East and West of Winnipeg, to be served by the four existing regional carriers. Ontario's response was that the proposed policy was too narrow in scope, maintaining the status quo while adding further unnecessary restrictions. In addition, the policy as drafted would preclude the emergence of an Ontario-based regional carrier.
- The federal government expects to introduce new legislation in the fall of 1982. Federal intentions could have a serious impact on whether Ontario will have an Ontario regional air carrier now or in the future.

2. Nordair

- In 1981 the federal government was again unable to arrange the sale of Nordair to meet both Quebec's and Ontario's conditions. Ontario continues to seek an Ontario carrier which would serve Ontario but would accept the sale of Nordair to a consortium of Air Canada and equal Quebec and Ontario interests. The federal government announced in February 1982 that it would allow Air Canada to maintain control of Nordair. While this is a temporary solution acceptable to Ontario, it does not resolve the issue, or guarantee a regional carrier for Ontario.

3. Municipal Airports/Navigational Aids

- In the spring of 1980 Ottawa and the Province agreed that the federal government would fund navigational aids, and in return, Ontario would accept responsibility for funding of municipal airport improvements. In February 1982, the federal government announced without consultation that it will again provide assistance to municipal airports in Ontario thus suddenly upsetting provincial priorities.

b) Rail

1. Urban Transportation Assistance Program

- The federal government has presented the provinces with draft policy proposals on the federal role in urban transportation and rail relocation. Following consultation with provinces the federal government has been convinced of a real need for grade separations and railway crossing and as such the federal government may revert back to a pre-UTAP railway crossing program. A federal Cabinet decision is expected to lead to a new program beginning in April 1984.
- Ontario has traditionally used its UTAP money for rail crossings and grade separations and therefore would support this approach. However, there are no assurances that funding for this program will be sufficient to meet Ontario's needs. With the extention of the UTAP program for one year without additional funds, there will be no federal funds for Ontario in 1983. As a result, municipalities will put increased pressure on the Province to provide funds for rail crossings and grade separation.

2. GO-CN Costing Arrangement

- GO transit has not been able to negotiate with CNR for the extension of GO train service at charges similar to those enjoyed by COTREM (Montreal) or VIA. The Province believes it is being overcharged by CN to operate its trains on the railway's system. Recent federal actions concerning the Toronto area VIA service cancellations entail a transfer of responsibilities to the Province which places it at a severe financial disadvantage. As the Province attempts to improve and expand commuter service, the issue of charges will be exacerbated.

3. VIA service cancellations

- In the spring of 1981, Ottawa cancelled a number of VIA passenger rail routes across the country without prior consultation. VIA service on Ontario lines will terminate on September 7, 1982.
- In response, Ontario has taken over commuter services on two of the three abandoned Toronto area lines acknowledging a responsibility to provide "commuter service" in the GO transit service area and reaffirming that "inter-city" rail service is the sole responsibility of the federal government. However, the federal government unilaterally defines what it considers to be inter-city service and as metropolitan areas grow the Province may be forced to assume more and more of the rail service bill.

- The result of the latest VIA service cancellations has been a large unforeseen financial burden on the Province and has required a redirection of BILD funds initially dedicated for infrastructure improvements on the Windsor-Quebec City Corridor to GO transit. Ontario has put the federal government on notice that it expects a corresponding increase in the federal government investment in southern Ontario's inter-city rail service.

c) Marine

Ports Legislation

- New Ports legislation was introduced in Parliament in February 1982 following consultation with provinces. This version is much less controversial than previous proposals; however, Ontario is concerned that regional advisory councils established in the legislation have not been given a sufficiently broad mandate.
- Ontario continues to place a heavy emphasis on the need for attention and improvements to the Great Lakes Seaway System, particularly the Welland Canal and would like to see regional advisory committees consider system issues having a direct impact on ports.

Emerging Issues

Freight Rates (Crow's Nest Rates)

- On February 8, 1982, Mr. Pépin announced the beginning of consultations leading to legislative changes to end the Crow's Nest Rates. A tentative deadline of spring 1982 was set for consultation, while legislation is to be introduced in the fall of 1982.
- Ontario has generally supported the need for a revision of Crow Rates, and improvements to the western rail system. Consideration will have to be given, however, to the effect on West to East rates and on relevant Ontario industries, e.g., food processing, transit.

URANIUM POLICY

Issues

- Clear responsibility has yet to be determined for the management of low level radioactive wastes. The federal government has jurisdiction over the nuclear fuel cycle, but claims that "incidental" wastes should be a provincial responsibility.
- Clarification of respective federal and provincial roles in aspects of uranium mining such as conventional occupational health and safety has been achieved. Responsibility for other aspects such as mine tailings management remains outstanding.

Recent Events

- a) Low level radioactive waste
 - A recent report (Hickling) commissioned by Energy, Mines and Resources Canada proposes provincial responsibility for "natural" and "incidental" low level wastes. Ontario has had discussions with federal officials on the issues of low-level radioactive waste management but it has not yet developed a formal response. The matter of locating a disposal site for low level radioactive waste is recognized as being a top priority.
 - The question of responsibility has been complicated by Ontario's involvement in the Malvern site clean-up. Since the granting of a temporary injunction against the Atomic Energy Control Board, Ontario has accepted responsibility for removal of low level radioactive waste from the Malvern site, although normally a federal responsibility.
- b) Uranium mine tailings
 - Ontario conceived with Saskatchewan and the federal government a three-year, \$18.6 million, national program to research potential management strategies for uranium mine tailings. The federal and Saskatchewan governments will proceed with the program, but Ontario has reservations about its cost and scope (i.e., involvement of the private sector).
 - Tied in with this research program is Ontario's establishment of the Elliot Lake Coordinating Committee. This committee will assess roles and responsibilities of government agencies and departments. Tailings management was identified as a priority item.

c) Occupational health and safety

- An extension to the agreement on the regulation of conventional occupational health and safety in uranium mines was negotiated between the Ontario Ministry of Labour and Labour Canada.

Emerging Issues

- The federal government is anxious for Ontario to respond to the proposed division of responsibilities for low level radioactive waste management. The AECB has indicated it will be withdrawing from regulation of materials not related to the nuclear fuel cycle. The Federal-Provincial Task Force on Radioactivity is about to be disbanded. The Department of Energy, Mines and Resources will establish the Canada Waste Management Office to deal, in part, with the problem of the disposal of low level radioactive waste. Ontario will have to determine whether it is willing to take on new responsibilities, the legal basis for Ontario to act in this area, and possible compensation for assuming responsibilities that have been federal.
- AECB has recently published new and revised uranium mining regulations and licensing procedures. These should be examined in light of repeated requests by Ontario to have provincial environmental management objectives included in licensing requirements.
- Ontario's official response to proposed National Uranium Mine Tailings Research will have to be made following examination by Elliot Lake Coordinating Committee of research requirements and decisions on the program scope and costs.

3. SOCIAL POLICY

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CULTURE

Issue

- Because the cultural area is not constitutionally defined as a federal or provincial responsibility, there is considerable scope for entanglement. Although there have been increased efforts towards intergovernmental cooperation and consultation, evidenced by regular deputies and ministers' meetings, it is apparent that the more active federal stance in cultural matters augments the likelihood of federal initiatives having a strong impact on provincial programs and priorities.

Recent Events

- a) Federal Cultural Policy Review Committee
(Applebaum-Hébert Committee)
 - With nationwide hearings completed, the Applebaum-Hébert Committee plans to release its report in September 1982. After public comment on the report, the federal minister intends to proceed with sectoral action plans that are presently being prepared by a number of task forces within the Communications Department. Highly concerned about unilateral federal action, the provinces have been promised consultation before any recommendations are implemented that directly affect them.
 - Closely tied in with the review have been increasing signs that the federal government intends to become more active in developing strategies for Canadian cultural development in the 1980's. The federal government wishes to promote Canadian culture in both the traditional areas, and by exploring the potential of industrial and technological culture. This is controversial because provinces have differing perceptions of the strength of Canadian culture, of the need for measures to promote or protect Canada's culture and of the role of government generally in cultural affairs.

b) International Cultural Relations

- Provincial input into determining Canada's international cultural exchange program has been accepted by the federal government. The major concern involves improved federal-provincial communication so that all parties are informed about policies, programs and activities and that intergovernmental co-ordination takes place.

c) Indemnification

- A number of indemnification plans, which would replace the need for private insurance to cover major art exhibitions, have been considered by government officials. Federal and provincial ministers recently agreed to accept a plan which would equitably share the cost of indemnifying expensive art exhibitions.

d) National Arts Centre (NAC)

- In order to redress provincial concerns that the NAC does not sufficiently reflect regional talent and aspirations, officials from the NAC have stated they would welcome discussions with the provinces on how this situation could be ameliorated. Provinces have also raised the need for more equitable regional representation on the Board of Directors of the NAC and have been requested to submit nominations.

e) Other Matters

- The limited membership committee of deputies (4+1) whose primary objective was to stimulate interprovincial and federal-provincial cooperation and consultation has been expanded to include deputies from all jurisdictions.
- Ontario's proposal for an Interprovincial Council on Historical Resources which would facilitate intergovernmental co-operation in the heritage field was accepted by provincial ministers.

Emerging Issues

- The Applebaum-Hébert Committee will be releasing its report in September 1982 with a concomitant increase in client expectations. Ontario should be ready to respond to the report's recommendations.
- New federal copyright legislation, presently under consideration by a Communications Department task force, will be tabled in early 1983. The Province should be prepared for consultation on this bill.
- It is expected that the federal government will be taking more responsibility for developing a cultural strategy in the 1980's. So that further entanglement does not ensue, Ontario should develop its own sense of appropriate roles in the cultural field and be in position to reply to any federal initiatives.

EDUCATION

Issue

- Intergovernmental relations in the past year have been marked by disagreement over federal contributions to several key areas of education. The federal government has been adamant in its demands for greater accountability, visibility and credibility where its funding is concerned, while the provinces have vigorously defended their jurisdiction over education.

Recent Events

- a) Established Programs Financing (EPF)
 - The November 12, 1981 federal budget proposed that new federal-provincial arrangements for the financing of post-secondary education and human resources be devised by March 31, 1983. These proposals were interpreted as an attempt by Ottawa to reduce its own financial involvement while increasing its control over provincial spending in higher education.
 - Several months passed without the negotiations beginning because of differences between the federal government and the provinces regarding the mechanisms for negotiation and also because of federal delay tactics meant to give the provinces less time to organize their response.
 - A meeting of the Secretary of State and ministers responsible for education, within the framework of the CMEC, was held on July 9 in Toronto. Mr. Regan tabled a paper outlining federal proposals on PSE in more detail; other agenda items were student assistance and the protocol for bilateral bilingualism in education agreements. The federal Minister adopted a more cooperative approach and called for joint development of national objectives for PSE, while stressing the seriousness of federal intentions to split PSE and health funding for accountability reasons. A second Ministerial Conference is scheduled for September 1982.

b) Bilingualism in Education Program

- Work towards the renewal of federal-provincial bilingualism in education agreements has been going on since the summer of last year. The previous five-year agreement expired March 31, 1979; interim arrangements have been made with only very minor increases in federal funding.

- All parties are very close to finalizing a "protocol" for bilateral agreements. The federal and provincial governments would agree on broad principles and then each province would choose between receiving its funding based on a standard formula for calculating program costs or negotiating its own bilateral deal with Ottawa. No increases in funding over the 1981-82 amount (\$173 million) are forthcoming.

c) Student assistance

- CMEC has been exchanging proposals for a new national student assistance plan with the Secretary of State for some months: Mr. Regan committed his government to concrete action in this area at the July meeting.
- The Federal-Provincial Task Force on Student Assistance will be reactivated immediately to review and clarify outstanding issues, with political resolution of same to come at the September meeting.

Emerging Issues

- Negotiations on federal program conditions and provincial accountability measures with regard to post-secondary education will dominate the federal-provincial agenda.
- Finalization of a joint agreement on the Bilingualism Education Program will be important as well. Ontario has played a key balancing role in events to date.
- Provincial education ministers are keenly interested in on-going discussions between their manpower colleagues and the federal Minister of Employment and Immigration regarding a new national training program. Potential impacts of federal proposals on institutional training are viewed with concern. (This issue is dealt with in detail in the Labour and Manpower section.)

HEALTH

Issue

- In its pursuit of visibility, the federal government is prepared to undo the 1977 Established Programs Financing Act which achieved disentanglement in the health care system. It wants now to negotiate with provinces new health standards and "re-conditionalize" its transfers to ensure that provincial health programs reflect "national interest".

Recent Events

- The federal government had announced in its October 1980 budget its intention to reduce its spending by cutting back transfers to the provinces in the health and post-secondary education sectors. A Parliamentary Task Force on Fiscal Arrangements was established by the federal government to seek public views in the process of reviewing federal-provincial fiscal arrangements for the 1982-87 period.
- The Task Force reported to Parliament in August 1981. With respect to the health care system, its conclusions supported Ontario's views on some issues:
 - the achievements of the public health care system in Canada would be jeopardized by reductions in current aggregate levels of federal funding
 - there was no evidence of problems with respect to the comprehensiveness of insured services.
- On other issues, such as extra-billing, premium and user charges, it reached the same conclusions as the 1980 Hall Commission Report.
- At their annual meeting in September 1981, provincial Health Ministers reiterated their opposition to unilateral federal action on the program conditions and reductions in federal health care spending. Subsequently the federal government gave assurances that federal action on program conditions would be preceded by federal-provincial discussions.
- The November 1981 federal Budget called for clarification of the basic principles of the health care system and for a mechanism to ensure that the program principles (conditions) are maintained by the provinces. The Budget also called for revised standards to be included in new federal legislation by March 31, 1983, threatening to freeze transfers to provinces if agreement was not reached by that date.

- The fiscal side of the EPF negotiations concluded in April 1982 with the passage of Bill C-97, amending the Federal-Provincial Federal Arrangements and Established Program Financing Act, 1977. Thus the federal government unilaterally ended the fiscal negotiations before the health program negotiations began.

Emerging Issues

- The federal-provincial negotiations announced in the November Budget began in May 1982. The federal government proposed:
 - the elimination of extra-billing and user-fees
 - provision for federal sanctions for provincial non-compliance with conditions
 - payments to provincial Health ministries rather than to treasuries.
- Related to the fiscal negotiations and following from the Parliamentary Task Force and Hall Commission Reports is the key issue of whether the federal government will attempt to impose additional (national) program conditions on the provinces or will define the existing principles more stringently in order for provinces to continue to receive federal funding -- in effect reintroducing a conditional grant (but not shared-cost) scheme.

IMMIGRATION

Issue

- The federal government wants to involve Ontario more directly in the sharing of responsibility for immigration policy by having the province sign agreements for special-needs refugees and participate in setting immigration levels.

Recent Events

a) Immigration

- The Canada Employment and Immigration Commission (CEIC) has begun to set immigration levels for a three-year period. This is an attempt to better co-ordinate immigration inflow and to address longer-range labour market requirements.
- There is continual federal pressure on the Province to become involved in joint decision-making on policy matters (such as determination of criteria and selection of immigrants). An example is a recent federal proposal that Ontario participate in a federal-provincial program to facilitate the entry of refugees with special needs.
- The Federal reviews of the Immigrant Settlement and Adaptation Program (ISAP) and adult language training programs are nearing completion. Ontario has been involved in the development of a revised ISAP. Early expectation that federal settlement services will be expanded and improved may not materialize because of current federal restraint.
- An Immigration Policy Review was established by the Ontario Cabinet to consider Ontario's immigration policy "as it relates to the selection, recruitment and settlement services". The Ministry of Intergovernmental Affairs and ministries who deal with immigration matters, are examining the province's current policy position, the federal-Ontario relationship and the internal provincial co-ordination structures.

b) Refugees

- CEIC has proposed Ontario sign a joint agreement to establish a Special Program for Assisting Refugees (SPAR). This program would cover refugees with special needs (i.e. unaccompanied minors, handicapped and tubercular persons) whereby direct financial assistance would come from Canada, and Ontario would provide medical and social assistance.

- The current SPAR proposal is similar to the Joint Assistance Program that was initiated by CEIC the previous year. Although further clarification of both proposals is required, a response to these federal initiatives awaits the outcome of the interministerial immigration policy review.

Emerging Issues

- The completion of the immigration policy review will require the province to consider two main issues:
 - how to strengthen internal co-ordination structures in order to respond to immigration issues; and
 - how best to ensure more effective consultation with the federal government on immigration issues.
- The setting of a policy respecting special needs refugees will be required in 1982.
- The federal review of ISAP and language training programs will be completed and the province should be prepared to respond to the recommendations.

PENSIONS

Issues

- At issue here are:
 - a) whether all governments can agree to reform the pension system through either the option of reform of the private sector (Ontario's preference) or the expansion of CPP/QPP;
 - b) attempts by the federal government to use pension funds to achieve social welfare objectives (such as disability benefits).

Recent Events

- In March of 1981 the federal government sponsored a national pensions conference. Subsequently a federal task force on pensions was set up. This was followed by a round of bilateral discussions with the provinces.
- In June 1981, provincial Finance Ministers set up the Working Group of Provincial Officials on Retirement Income operating on the principle that the capacity of the economy to support enhanced pensions is critical and that provincial "harmonization" of private sector plans is desirable.
- In December the working group reported to the provincial ministers of Finance who endorsed a provincial consensus position recommending an upward adjustment of the CPP contribution by .2% per year over 25-30 years to bring the contribution rate from the current 3.6% to around 8 to 10%.
- Ontario favours proceeding to refinance the existing benefit structures of the CPP before discussing enhanced CPP benefits. Federal Finance prefers to refinance current benefits and provide for enhanced benefits simultaneously.
- The Federal Department of Health and Welfare has also given indications that it favours expanding the CPP and QPP rather than relying on the private sector to provide more comprehensive pension coverage.

Emerging Issues

- a) Green Paper on Pension Reform
- The long-awaited federal Green Paper on pension reform is expected shortly. The area of pension reform has been marked by a new federal assertiveness and federal

preference for bilateralism which have so far been counterbalanced by good interprovincial coordination and consensus. The challenge will be to maintain this multilateral momentum when federal intentions are clarified in a Green Paper. Good interprovincial working relationships will also be essential to ensure harmonization of private sector coverage.

b) Disability Pensions

- The federal government is pushing reform of disability pensions to provide higher benefits. The federal Health Minister has proposed to address the problem by raising the level of CPP disability benefits. Most provinces are negative toward this solution because it moves away from the insurance principle, would drain pension funds, and would aid only those disabled who have worked at some point. A federal-provincial working group is to study the issue but the federal government may continue to push for increased CPP benefits as an interim measure.
- Ontario's veto over CPP amendments give it a special responsibility to ensure that a credible solution to this problem is found.

c) Homemaker's Dropout Provision

- Four years ago, Parliament approved a CPP change which would drop years spent at home raising young children from the calculation of average annual earnings on which pensions are based. The change took effect in the Quebec Pension Plan in 1977 but Ontario used its veto to block it in the CPP. Because it is a low cost, high visibility reform, the federal government may try to move on it again this year.

RECREATION

Issue

- Sports and recreation program development and delivery have been characterized by cooperation and continued efforts to avoid federal-provincial duplication. On the other hand, sports policy and lotteries remain contentious areas, with federal reluctance to cede provincial primacy.

Recent Events

a) Lotteries

- This has become an issue once again as a result of the federal government's intention to institute a betting pool (Toto) game. The Interprovincial Lottery Corporation (ILC) introduced a \$1 national lottery in June with the intent of undercutting the federal initiative. The question of federal start-up costs for the Toto has not been settled, nor has that of whether provincial hardware can be used. Provinces are advised not to contest the legality of the federal initiative since the Toto is not, legally, a lottery.
- Provinces must now decide what other measures to take, since the legal channel does not appear to be a viable one.

b) Sports and Recreation

- The federal government released a white paper in March 1981 on its role in fitness and amateur sports. This provided an ongoing rationale for federal involvement in these areas, and was acceptable to Ontario.
- Provinces and the federal government have been attempting to develop a strategy for federal and provincial involvement in recreation. However, the federal role in recreation has proved to be a stumbling block because the federal Minister responsible for Fitness and Amateur Sports is reluctant to speak for all federal departments with programs in the recreation field. Moreover there were different perceptions at the provincial and federal levels as to what the federal role should be. The municipal role in recreation has also been of some dispute.

- The training and development of high performance athletes has raised jurisdictional questions. Which government has responsibility for high performance training, and whether emphasis should be put on general athlete and coach training or on excellence are questions which have led to considerable debate. Sport Training Centres, Canada Games, the Athletic Support Program and Coaching Development all involve arguments as to federal and provincial funding and responsibility.
- There has been considerable intergovernmental co-operation in boxing (both amateur and professional); the federal Task Force on Boxing and most of its recommendations have been accepted nationally. The federal government indicated its desire to appoint a national commissioner for professional boxing, which was endorsed by Ontario.
- The federal decision to withdraw funding of recreation programs for Métis and non-status Indians is still being contested by the provinces.

Emerging Issues

- As agreement has not been reached on athlete development and high performance training, both will be priority subjects for consideration by the proposed federal-provincial committee.
- Lotteries will continue to be an issue. Items requiring federal-provincial settlement include federal use of provincial lottery hardware, continued payments by the FPC to the federal government on the basis of the original agreement, and use of the federal portion of lottery revenue (i.e., sports or culture and development of criteria).

SOCIAL SERVICES

Issue

- With the new federal approach on fiscal arrangements, block-funding for social services is out of the question. The federal government will instead try to control its expenditures in this area while increasing its visibility. The challenge for the Province is to achieve incremental changes in the Canada Assistance Plan (CAP) and the Vocational Rehabilitation of Disabled Persons (VRDP), to meet provincial priorities. Any new funds have to come from elsewhere in the social envelope, and hence will be in competition with dollars the Province is seeking on EPF or for CAP/VRDP reform.

Recent Events

- A federal-provincial conference of Social Services Ministers convened in February to discuss benefits and services to the disabled. Although all parties to the meeting agreed the disabled should receive more, CPP changes are up to the respective treasurers of each government, not the social services ministers. A federal-provincial Study Group on Benefits for the Disabled was set up to investigate funding by means of a social insurance scheme or income redistribution program.
- The new Young Offenders Act contains no formal funding guarantees for the provinces. Furthermore, it sets the upper age limit of Young Offenders at 18. Ontario's system is geared to an upper limit of 16. This will mean an estimated increased capital cost to Ontario of \$87.7 million, and increased operation costs of \$84.7 million by 1985-6.
- Under CAP, Ontario's Children's Mental Health Centres are not eligible for federal funding. Ontario is bearing the entire cost of \$103.2 million for 1982/3. The province is trying to find some way of getting the federal government involved in a cost-sharing program for the CMHCs.

Emerging Issues

- Ontario should anticipate a federal attempt to strengthen the federal role and leadership on social services. Since the federal government cannot directly spend in social services, its expenditures must pass through provincial agencies. To achieve increased visibility and access to individuals, federal plans will focus on pension reform, the disabled, and the working poor.

- In view of its revenue situation it is in Ontario's interest to:
 - continue to go after untapped funds under CAP/VRDP (e.g. daycare, homemakers, special agreements for mentally handicapped children)
 - support incremental changes to CAP/VRDP (i.e. CAP/VRDP review) in the absence of the likelihood of a social services review
 - oppose any attempt to incorporate an equalization factor in CAP/VRDP (such as differential funding among "have and have-not" regions) or any other cost-shared programs, particularly in the face of the distortions under the general equalization formula.

4. CONSTITUTIONAL REFORM

CONSTITUTIONAL REFORM

Issue

- The year began in deadlock among governments and strong opposition in Parliament to a federal constitutional package. It was, therefore, a major achievement when consensus among governments was achieved in November 1981. Although provinces saw this as a victory for co-operative federalism, the issue remains whether the now formal requirements for constitutional amendments will frustrate further attempts at constitutional reform. [See also section on Natives]

Recent Events

- Faced with the unilateral federal constitutional Resolution of October 1980, six provinces challenged both its substance and its unilateral nature in the Courts of Appeal of Manitoba, Newfoundland and Quebec. Nova Scotia and Saskatchewan opposed the federal move yet abstained from joining the other provinces in court. Ontario supported the Resolution because the Province had long advocated the inclusion of a charter and patriation and because federal action appeared to be the only course left after a seemingly unbreakable deadlock.
- The dissenting provinces moved next on April 16, 1981 to propose an alternative package. Whereas the federal government had proposed patriation, a Charter of Rights, a modified "Victoria" amending formula and a national referenda provision, the provinces' accord called for patriation with a modified "Vancouver" formula but neither a charter nor a referendum provision. The provinces also offered to discontinue their court action if the federal government in turn dropped its Resolution.
- Following strong Parliamentary opposition and mixed decisions in the Provinces' Court of Appeal, Prime Minister Trudeau agreed to await the Supreme Court's ruling on appeals respecting the Constitutional Resolution. On September 28, the Supreme Court ruled that the federal unilateral action was "legally" permissible, but unconstitutional in a conventional sense and that "significant," rather than unanimous intergovernmental consent should support general constitutional reform.
- The ambiguity of this decision, and uncertainty as to how the UK parliament would handle a "legal" but non-conventional unilateral federal petition, drove all governments back to the negotiations table.
- On November 5, an agreement was reached between the federal government and nine provinces. It contained the "group of eight" provinces' amending formula, most of the federal government's Charter of Rights, a guarantee for the equalization principle and the enlargement of provincial extra-territorial control over its natural resources. Premier Lévesque, until then very much a part of the group of eight,

alone refused to endorse the constitutional package which he claimed diminished Quebec's powers in Confederation.

- In an effort to accommodate Quebec, alterations were made: any province opting out of future amendments which would transfer provincial educational and cultural rights to the federal government would be entitled to receive reasonable compensation from the federal government; and, authorization by Quebec's legislative assembly would be necessary before Clause 23 (1) (giving English-speaking citizens the right to educate their children in English) became law in Quebec. Quebec remained adamant. Instead, it referred to its Court of Appeal a question concerning the validity of its claim to a veto right over constitutional changes. The Court unanimously rejected this claim. Quebec is now appealing this decision to the Supreme Court of Canada.
- After swift passage through the Canadian House of Commons and Senate, the Constitution Act 1981 was tabled in the United Kingdom Parliament on December 21. Within four months, it passed both Houses, unamended, and received royal proclamation in Canada on April 17, 1982.

Emerging Issues

- The new Constitution Act contains a clause which guarantees native participation at a First Ministers' Constitutional Conference convened within twelve months of proclamation of the constitution to further define these rights; the form and agenda for this conference are yet to be decided.
- Ontario is on record as being willing to consider institutional reforms that could be an acceptable answer to some of Quebec's constitutional concerns. Senate reform, for example, has already been considered during the September 1980 constitutional conference and might also appeal to other provinces, particularly British Columbia.
- Among various items on distribution of powers that could be submitted for discussion at the First Ministers' Conference, offshore resources is the most likely to appear on the agenda. Mr. Peckford has always requested that any agreement between the federal and Newfoundland governments be entrenched in the constitution. Other items such as communications, fisheries, further definition of federal powers over the economy could reappear as possible agenda items, although none have yet been put forward by the other provinces. The federal government has served notice that, should provinces wish to discuss powers detracting from federal control, it will place "powers affecting the economy" on a future agenda.

5. FISCAL AND ECONOMIC RELATIONS

FISCAL AND ECONOMIC RELATIONS

Issue

- Federal intransigence in negotiating new fiscal arrangements with the provinces, in pursuing an economic policy mainly predicated on deflationist and monetarist concerns, and in establishing a predominant, independent federal role in economic development strategies is causing major intergovernmental stress. As a result, it has not been possible to achieve an intergovernmental consensus on issues such as the fiscal arrangements for the 1982-87 period and the means to ensure economic recovery. The federal government ultimately imposed its own solutions without provincial concurrence.

Recent Events

a) Fiscal Arrangements

- While there were signals in the October 1980 budget of federal intention to reduce fiscal transfers to the provinces and to seek a more active role in the way Established Programs Financing (EPF) transfers are used by the provinces, Ottawa waited until November 1981 before unveiling specific proposals. For several months prior to the November budget, it conducted a very active public relations campaign, using various opportunities such as the Parliamentary Task Force on Federal-Provincial Fiscal Arrangements, to present and argue its case for reduced transfers to the provinces.
- The Parliamentary Task Force's report in August 1981 rejected federal contentions about a presumed fiscal imbalance and argued against a reduction of fiscal transfers to the provinces. However, it supported increased federal visibility and greater control of provincial health and post secondary education expenditures.
- Provinces had difficulty in mounting an effective counter-strategy because of the lack of specific federal proposals, but also because of differences of views among them. At the Premiers' Conference in August 1981, they unanimously rejected the proposed federal cuts but had no alternative to offer. An Ontario proposal for the establishment of an equalization system providing for direct contribution from resources-rich provinces was turned down by other provinces.

- The November 1982 budget made public the federal proposals. They comprised
 - the elimination of the Revenue Guarantee component of the Fiscal Arrangements Act (FAA);
 - an extended equalization payment system, making Ontario's fiscal capacity the benchmark for the determination of payments to the have-not provinces;
 - negotiation with the provinces to achieve by March 1983, clarification of national health standards and new federal-provincial arrangements for the financing of post-secondary education.
- The estimated net effect of these proposed measures is a saving of \$5.7 billion to the federal treasury in fiscal transfers in the 1982-87 period.
- In the following round of federal-provincial discussions among finance ministers, no real negotiations actually took place because of federal intransigence and because the Established Programs Financing and Fiscal Arrangements Act are federal initiatives to start with. No agreement could be reached at the level of finance ministers. First Ministers did not fare any better at their Conference on the Economy in February 1982.
- Bill C-97, an Act to amend the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, was enacted in early April. It essentially implemented the budget's proposals. The only major change (of no consequence to Ontario) was to replace the Ontario standard in the equalization formula by an average of revenue capacity among five provinces (i.e., British Columbia, Saskatchewan, Manitoba, Ontario and Quebec).

b) Economic Policy

- The federal government's attention, for most of the summer and the fall of 1981, was focussed on the twin issues of an oil pricing agreement with Alberta and the achievement of a constitutional agreement. Plans for a First Ministers' Conference on the Economy were given lower priority and did not therefore materialize until February 1982.
- The November 1981 budget unveiled an economic development strategy, largely premised on the development of the resource sector in western Canada, with Ontario and Quebec presumed to benefit from the industrial spin-offs of mega-projects as they were launched. The budget's emphasis on monetarist and deflationist concerns, with lesser attention given to the interest rate and unemployment issues, was a source of grave concern among the provinces, which had hoped for a more stimulative approach.

- At the February 1982 First Ministers' Conference, the two contending federal (restrictive) and provincial (stimulative) economic approaches clashed. No agreement was reached on joint initiatives to ensure economic recovery. The Prime Minister also made it very clear that he saw economic development as a main federal responsibility and that Ottawa would put an end to joint federal-provincial development initiatives which did not meet federal priorities.

Emerging Issues

- a) EPF sectoral negotiations
- The negotiations with the provinces of national standards in the post-secondary education and health elements of EPF will be a major issue for most of 1982. The main federal preoccupation is to regain a predominant federal role (lost in 1977 with the EPF block-funding arrangements) in setting up the requirements and the conditions under which the provinces should use EPF funds.
- The issue for Ontario will be to maximize its cost-sharing eligibility and to find some way to accommodate the federal government's search for increased visibility and accountability without compromising the Province's fundamental responsibility for both the post-secondary education and health fields.
- b) Economic Policy
- While the federal government has agreed to relax some of the most contentious tax measures in its November budget, it continues to be firmly committed to a policy of monetary and fiscal restraint. A worsening of the economy may oblige Ottawa to take a more active role in engineering economic recovery. A possible approach is the imposition of some form of compulsory wage and price control.
- The recent abandonment of large resources development projects in the West influenced by high interest rates, a cut of world oil and the world stagnation in the rise of oil prices have made questionable federal assumptions about energy revenue flows. Elsewhere, the recession has increased the federal deficit. It may therefore be unrealistic to expect major stimulative moves from the federal government leaving the Province alone to address the difficulties in its economy.

